

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO HOUSE BILL NO. 435

Sponsor:

Printer's No. 2010

1 Amend Bill, page 1, lines 2 through 9, by striking out
2 "further" in line 2 and all of lines 3 through 9 and inserting
3 further providing for persons required to report suspected
4 child abuse, for reporting procedure, for confidentiality of
5 reports, for release of information in confidential reports,
6 for information relating to prospective child-care personnel,
7 for information relating to family day-care home residents
8 and for information relating to other persons having contact
9 with children; providing for continued employment or
10 participation in program, activity or service and for
11 certification compliance; making a conforming amendment to
12 Title 42; providing for a study on employment bans for those
13 having contact with children; and making editorial changes.

14 Amend Bill, page 1, lines 12 through 19; pages 2 through 19,
15 lines 1 through 30; page 20, lines 1 through 18, by striking out
16 all of said lines on said pages and inserting

17 Section 1. Section 2530(b)(2) of Title 23 of the
18 Pennsylvania Consolidated Statutes is amended to read:
19 § 2530. Home study and preplacement report.

20 * * *

21 (b) Preplacement report.--A preplacement report shall be
22 prepared by the agency or person conducting the home study.

23 * * *

24 (2) The preplacement report shall be based upon a study
25 which shall include an investigation of the home environment,
26 family life, parenting skills, age, physical and mental
27 health, social, cultural and religious background, facilities
28 and resources of the adoptive parents and their ability to
29 manage their resources. The preplacement report shall also
30 include the information required by section 6344(b) (relating
31 to [information relating to prospective child-care personnel]
32 employees having contact with children; adoptive and foster
33 parents).

34 * * *

35 Section 2. Paragraph (13) of the definition of "child-care

1 services" and the definitions of "child protective services,"
2 "cooperation with an investigation or assessment," "county
3 agency," "department," "indicated report," "protective
4 services," "recent act," "recent act or failure to act,"
5 "secretary" and "subject of the report" in section 6303(a) of
6 Title 23, amended April 7, 2014 (P.L.388, No.29) and May 14,
7 2014 (P.L.653, No.45), are amended to read:

8 § 6303. Definitions.

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

12 * * *

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

14 * * *

15 (13) Other child-care services that are provided by or
16 subject to approval, licensure, registration or certification
17 by the [Department of Public Welfare] department or a county
18 social services agency or that are provided pursuant to a
19 contract with the [Department of Public Welfare] department
20 or a county social services agency.

21 "Child protective services." Those services and activities
22 provided by the [Department of Public Welfare] department and
23 each county agency for child abuse cases.

24 * * *

25 "Cooperation with an investigation or assessment." Includes,
26 but is not limited to, a school or school district which permits
27 authorized personnel from the [Department of Public Welfare]
28 department or county agency to interview a student while the
29 student is in attendance at school.

30 "County agency." The county children and youth social
31 service agency established pursuant to section 405 of the act of
32 June 24, 1937 (P.L.2017, No.396), known as the County
33 Institution District Law, or its successor, and supervised by
34 the [Department of Public Welfare] department under Article IX
35 of the act of June 13, 1967 (P.L.31, No.21), known as the Public
36 Welfare Code.

37 "Department." The Department of [Public Welfare] Human
38 Services of the Commonwealth.

39 * * *

40 "Indicated report."

41 (1) Subject to paragraphs (2) and (3), a report of child
42 abuse made pursuant to this chapter if an investigation by
43 the [Department of Public Welfare] department or county
44 agency determines that substantial evidence of the alleged
45 abuse by a perpetrator exists based on any of the following:

46 (i) Available medical evidence.

47 (ii) The child protective service investigation.

48 (iii) An admission of the acts of abuse by the
49 perpetrator.

50 (2) A report may be indicated under paragraph (1)(i) or
51 (ii) for any child who is the victim of child abuse,

1 regardless of the number of alleged perpetrators.

2 (3) A report may be indicated under paragraph (1)(i) or
3 (ii) listing the perpetrator as "unknown" if substantial
4 evidence of abuse by a perpetrator exists, but the department
5 or county agency is unable to identify the specific
6 perpetrator.

7 * * *

8 "Protective services." Those services and activities
9 provided by the [Department of Public Welfare] department and
10 each county agency for children who are abused or are alleged to
11 be in need of protection under this chapter.

12 "Recent act." Any act committed within two years of the date
13 of the report to the [Department of Public Welfare] department
14 or county agency.

15 "Recent act or failure to act." Any act or failure to act
16 committed within two years of the date of the report to the
17 [Department of Public Welfare] department or county agency.

18 * * *

19 "Secretary." The Secretary of [Public Welfare] Human
20 Services of the Commonwealth.

21 * * *

22 "Subject of the report." Any child, parent, guardian or
23 other person responsible for the welfare of a child or any
24 alleged or actual perpetrator in a report made to the
25 [Department of Public Welfare] department or a county agency
26 under this chapter.

27 * * *

28 Section 3. Section 6311(b)(1) of Title 23, amended April 15,
29 2014 (P.L.414, No.32) and April 15, 2014 (P.L.417, No.33), is
30 amended and subsection (a) is amended by adding a paragraph to
31 read:

32 § 6311. Persons required to report suspected child abuse.

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

37 * * *

38 (15) A foster parent.

39 (b) Basis to report.--

40 (1) A mandated reporter enumerated in subsection (a)
41 shall make a report of suspected child abuse [or cause a
42 report to be made] in accordance with section 6313 (relating
43 to reporting procedure), if the mandated reporter has
44 reasonable cause to suspect that a child is a victim of child
45 abuse under any of the following circumstances:

46 * * *

47 Section 4. Section 6313 of Title 23 is amended by adding a
48 subsection to read:

49 § 6313. Reporting procedure.

50 * * *

51 (e) Applicability of Mental Health Procedures Act.--

1 Notwithstanding any other provision of law, a mandated reporter
2 enumerated under 6311 (relating to persons required to report
3 suspected child abuse) who makes a report of suspected child
4 abuse pursuant to this section, or who makes a report of a crime
5 against a child to law enforcement officials, shall not be in
6 violation of the act of July 9, 1976 (P.L.817, No.143), known as
7 the Mental Health Procedures Act, by releasing information
8 necessary to complete the report.

9 Section 5. Section 6335(e) introductory paragraph of Title
10 23, amended April 7, 2014 (P.L.388, No.29), is amended to read:
11 § 6335. Access to information in Statewide database.

12 * * *

13 (e) Clearances.--Information provided in response to
14 inquiries under section 6344 (relating to [information relating
15 to prospective child-care personnel] employees having contact
16 with children; adoptive and foster parents), 6344.1 (relating to
17 information relating to [family] certified or registered day-
18 care home residents) or 6344.2 (relating to [information
19 relating to other persons] volunteers having contact with
20 children) shall not include unfounded reports of child abuse or
21 reports related to general protective services and shall be
22 limited to the following:

23 * * *

24 Section 6. Section 6338.1(a)(2) of Title 23 is amended to
25 read:

26 § 6338.1. Expunction of information of perpetrator who was
27 under 18 years of age when child abuse was committed.

28 (a) General rule.--The name of a perpetrator who is the
29 subject of an indicated report of child abuse and who was under
30 18 years of age when the individual committed child abuse shall
31 be expunged from the Statewide database when the individual
32 reaches 21 years of age or when five years have elapsed since
33 the perpetrator's name was added to the database, whichever is
34 later, if the individual meets all of the following:

35 * * *

36 (2) The individual has never been convicted or
37 adjudicated delinquent following a determination by the court
38 that the individual committed an offense under section
39 6344(c) (relating to [information relating to prospective
40 child-care personnel] employees having contact with children;
41 adoptive and foster parents), and no proceeding is pending
42 seeking such conviction or adjudication.

43 * * *

44 Section 7. Sections 6339 and 6340(a)(9)(i) and (c) of Title
45 23, amended April 7, 2014 (P.L.388, No.29), are amended to read:
46 § 6339. Confidentiality of reports.

47 Except as otherwise provided in this subchapter or by the
48 Pennsylvania Rules of Juvenile Court Procedure, reports made
49 pursuant to this chapter, including, but not limited to, report
50 summaries of child abuse and reports made pursuant to section
51 6313 (relating to reporting procedure) as well as any other

1 information obtained, reports written or photographs or X-rays
2 taken concerning alleged instances of child abuse in the
3 possession of the department or a county agency shall be
4 confidential.

5 § 6340. Release of information in confidential reports.

6 (a) General rule.--Reports specified in section 6339
7 (relating to confidentiality of reports) shall only be made
8 available to:

9 * * *

10 (9) Law enforcement officials of any jurisdiction, as
11 long as the information is relevant in the course of
12 investigating cases of:

13 (i) Homicide or other criminal offense set forth in
14 section 6344(c) (relating to [information relating to
15 prospective child-care personnel] employees having
16 contact with children; adoptive and foster parents),
17 sexual abuse or exploitation, bodily injury or serious
18 bodily injury caused by a perpetrator or nonperpetrator.

19 * * *

20 (c) Protecting identity.--Except for reports under
21 subsection (a) (9) and (10) and in response to a law enforcement
22 official investigating allegations of false reports under 18
23 Pa.C.S. § 4906.1 (relating to false reports of child abuse), the
24 release of data by the department, county, institution, school,
25 facility or agency or designated agent of the person in charge
26 that would identify the person who made a report of suspected
27 child abuse or who cooperated in a subsequent investigation is
28 prohibited [unless the department finds that the release will
29 not be detrimental to the safety of the person]. Law enforcement
30 officials shall treat all reporting sources as confidential
31 informants.

32 * * *

33 Section 8. Section 6344 heading, (a), (b), (c) (3), (d)
34 introductory paragraph, (3), (4), (5) and (6), (k), (l), (m),
35 (n) and (p) of Title 23, amended May 14, 2014 (P.L.653, No.45),
36 are amended, subsection (d) is amended by adding a paragraph and
37 the section is amended by adding subsections to read:

38 § 6344. [Information relating to prospective child-care
39 personnel] Employees having contact with children;
40 adoptive and foster parents.

41 (a) Applicability.--[This section applies to all prospective
42 employees of child-care services, prospective foster parents,
43 prospective adoptive parents, prospective self-employed family
44 day-care providers and other persons seeking to provide child-
45 care services under contract with a child-care facility or
46 program. This section also applies to individuals 14 years of
47 age or older who reside in the home of a prospective foster
48 parent for at least 30 days in a calendar year or who reside in
49 the home of a prospective adoptive parent for at least 30 days
50 in a calendar year. This section does not apply to
51 administrative or other support personnel unless their duties

1 will involve direct contact with children.] Beginning December
2 31, 2014, this section applies to the following individuals:

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

4 (2) A foster parent.

5 (3) A prospective adoptive parent.

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

7 (5) An individual 14 years of age or older applying for
8 a paid position as an employee responsible for the welfare of
9 a child or having direct contact with children.

10 (6) Any individual seeking to provide child-care
11 services under contract with a child-care facility or
12 program.

13 (7) An individual 18 years of age or older who resides
14 in the home of a foster parent for at least 30 days in a
15 calendar year or who resides in the home of a prospective
16 adoptive parent for at least 30 days in a calendar year.

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

19 (1) School employees governed by the provisions of the
20 act of March 10, 1949 (P.L.30, No.14), known as the Public
21 School Code of 1949, shall be subject to the provisions of
22 section 111 of the Public School Code of 1949, except that
23 this section shall apply with regard to the information
24 required under subsection (b) (2).

25 (2) School employees not governed by the provisions of
26 the Public School Code of 1949 shall be governed by this
27 section.

28 (b) Information to be submitted.--An individual identified
29 in subsection [(a)(6)] (a)(7) at the time the individual meets
30 the description set forth in subsection [(a)(6)] (a)(7) and an
31 individual [applying to serve in any capacity] identified in
32 subsection (a)(1), (2), (3), (4) [or], (5) or (6) or (a.1) prior
33 to the commencement of employment or service shall be required
34 to submit the following information [obtained within the
35 preceding one-year period:] to an employer, administrator,
36 supervisor or other person responsible for employment decisions
37 or involved in the selection of volunteers:

38 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal
39 history record information), a report of criminal history
40 record information from the Pennsylvania State Police or a
41 statement from the Pennsylvania State Police that the State
42 Police central repository contains no such information
43 relating to that person. The criminal history record
44 information shall be limited to that which is disseminated
45 pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general
46 regulations).

47 (2) A certification from the department as to whether
48 the applicant is named in the Statewide database as the
49 alleged perpetrator in a pending child abuse investigation or
50 as the perpetrator of a founded report [of child abuse] or an
51 indicated report [of child abuse].

1 (3) A report of Federal criminal history record
2 information. The applicant shall submit a full set of
3 fingerprints [in a manner prescribed by the department. The
4 Commonwealth shall submit the fingerprints to the Federal
5 Bureau of Investigation in order to obtain a report of
6 Federal criminal history record information and serve as
7 intermediary for the purposes of this section.] to the
8 Pennsylvania State Police for the purpose of a record check,
9 and the Pennsylvania State Police or its authorized agent
10 shall submit the fingerprints to the Federal Bureau of
11 Investigation for the purpose of verifying the identity of
12 the applicant and obtaining a current record of any criminal
13 arrests and convictions.

14 [For the purposes of this subsection, an applicant may submit a
15 copy of the information required under paragraphs (1) and (2)
16 with an application for employment. Administrators shall
17 maintain a copy of the required information and shall require
18 applicants to produce the original document prior to
19 employment.]

20 (b.1) Required documentation to be maintained and
21 produced.--The employer, administrator, supervisor or other
22 person responsible for employment decisions or acceptance of the
23 individual to serve in any capacity identified in subsection (a)
24 (1), (2), (3), (4), (5) or (6) or (a.1) shall maintain a copy of
25 the required information and require the individual to produce
26 the original document prior to employment or acceptance to serve
27 in any such capacity, except as allowed under subsection (m).

28 (b.2) Investigation.--An employer, administrator, supervisor
29 or other person responsible for employment decisions shall
30 require an applicant to submit the required documentation set
31 forth in this chapter. An employer, administrator, supervisor or
32 other person responsible for employment decisions that
33 intentionally fails to require an applicant to submit the
34 required documentation before the applicant's hiring commits a
35 misdemeanor of the third degree.

36 (c) Grounds for denying employment or participation in
37 program, activity or service.--

38 * * *

39 (3) In no case shall an [administrator] employer,
40 administrator, supervisor or other person responsible for
41 employment decisions hire or approve an applicant if the
42 applicant's criminal history record information indicates the
43 applicant has been convicted of a felony offense under the
44 act of April 14, 1972 (P.L.233, No.64), known as The
45 Controlled Substance, Drug, Device and Cosmetic Act,
46 committed within the five-year period immediately preceding
47 verification under this section.

48 (c.1) Dismissal.--If the information obtained pursuant to
49 subsection (b) reveals that the applicant is disqualified from
50 employment or approval pursuant to subsection (c), the applicant
51 shall be immediately dismissed from employment or approval.

1 (d) Prospective adoptive or foster parents.--With regard to
2 prospective adoptive or prospective foster parents, the
3 following shall apply:

4 * * *

5 [(3) Foster parents and any individual over 18 years of
6 age residing in the home shall be required to submit the
7 information set forth in subsection (b) every 24 months
8 following approval for review by the foster family care
9 agency in accordance with subsection (c).

10 (4) Foster parents shall be required to report, within
11 48 hours, any change in information required pursuant to
12 subsection (b) about themselves and any individuals over the
13 age of 18 years residing in the home for review by the foster
14 family care agency in accordance with subsection (c).]

15 (4.1) If a foster parent is arrested for or convicted of
16 an offense that would constitute grounds for denying approval
17 under this chapter, or is named as a perpetrator in a founded
18 or indicated report, the foster parent shall provide the
19 foster family care agency with written notice not later than
20 72 hours after the arrest, conviction or notification that
21 the foster parent was named as a perpetrator in the Statewide
22 database.

23 (5) Foster parents shall be required to report any other
24 change in the foster family household composition within 30
25 days of the change for review by the foster family care
26 agency. If any individual over 18 years of age, who has
27 resided outside this Commonwealth at any time within the
28 previous five-year period, begins residing in the home of an
29 approved foster family, that individual shall, within 30 days
30 of beginning residence, submit to the foster family care
31 agency a certification obtained [within the previous one-year
32 period] from the Statewide [central registry] database, or
33 its equivalent in each state in which the person has resided
34 within the previous five-year period, as to whether the
35 person is named as a perpetrator [of child abuse]. If the
36 certification shows that the person is named as a perpetrator
37 [of child abuse] within the previous five-year period, the
38 foster family care agency shall forward the certification to
39 the department for review. If the department determines that
40 the person is named as the equivalent of a perpetrator of a
41 founded report [of child abuse] within the previous five-year
42 period and the person does not cease residing in the home
43 immediately, the [foster child or children shall immediately
44 be removed from the home without a hearing.] county agency
45 shall immediately seek court authorization to remove the
46 foster child or children from the home. In emergency
47 situations when a judge cannot be reached, the county agency
48 shall proceed in accordance with the Pennsylvania Rules of
49 Juvenile Court Procedure.

50 (6) In cases where foster parents knowingly fail to
51 submit the material information required in paragraphs [(3),

1 (4)] (4.1) and (5) and section 6344.4 (relating to
2 certification compliance) such that it would disqualify them
3 as foster parents, the [child shall immediately be removed
4 from the home without a hearing.] county agency shall
5 immediately seek court authorization to remove the foster
6 child or children from the home. In emergency situations when
7 a judge cannot be reached, the county agency shall proceed in
8 accordance with the Pennsylvania Rules of Juvenile Court
9 Procedure.

10 * * *

11 [(k) Existing or transferred employees.--A person employed
12 in child-care services on July 1, 2008, shall not be required to
13 obtain the information required in subsection (b) as a condition
14 of continued employment. A person who has once obtained the
15 information required under subsection (b) may transfer to
16 another child-care service established and supervised by the
17 same organization and shall not be required to obtain additional
18 reports before making the transfer.

19 (l) Temporary employees under special programs.--The
20 requirements of this section do not apply to employees of child-
21 care services who meet all the following requirements:

22 (1) They are under 21 years of age.

23 (2) They are employed for periods of 90 days or less.

24 (3) They are a part of a job development or job training
25 program funded, in whole or in part, by public or private
26 sources.

27 Once employment of a person who meets these conditions extends
28 beyond 90 days, all requirements of this section shall take
29 effect.]

30 (m) Provisional employees for limited periods.--
31 Notwithstanding subsection (b), [administrators] employers,
32 administrators, supervisors or other persons responsible for
33 employment decisions may employ applicants on a provisional
34 basis for a single period not to exceed [30 days or, for out-of-
35 State applicants, a period of] 90 days, if all of the following
36 conditions are met:

37 (1) The applicant has applied for the information
38 required under subsection (b) and the applicant provides a
39 copy of the appropriate completed request forms to the
40 [administrator] employer, administrator, supervisor or other
41 person responsible for employment decisions.

42 (2) The [administrator] employer, administrator,
43 supervisor or other person responsible for employment
44 decisions has no knowledge of information pertaining to the
45 applicant which would disqualify him from employment pursuant
46 to subsection (c).

47 (3) The applicant swears or affirms in writing that he
48 is not disqualified from employment pursuant to subsection
49 (c) [.] or has not been convicted of an offense similar in
50 nature to those crimes listed in subsection (c) under the
51 laws or former laws of the United States or one of its

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

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

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

15 (n) Confidentiality.--The information provided and compiled
16 under this section, including, but not limited to, the names,
17 addresses and telephone numbers of applicants and foster and
18 adoptive parents, shall be confidential and shall not be subject
19 to the act of [June 21, 1957 (P.L.390, No.212), referred to as
20 the Right-to-Know Law] February 14, 2008 (P.L.6, No.3), known as
21 the Right-to-Know Law. This information shall not be released
22 except as permitted by the department through regulation.

23 * * *

24 (p) Use of information.--A prospective adoptive parent may
25 not be approved if the prospective adoptive parent or an
26 individual [14] 18 years of age or older who resides for at
27 least 30 days in a calendar year with the prospective adoptive
28 parent meets either of the following:

29 (1) Is named in the Statewide database as the
30 perpetrator of a founded report committed within the five-
31 year period immediately preceding verification pursuant to
32 this section.

33 (2) Has been found guilty of an offense listed in
34 subsection (c).

35 Section 9. Section 6344.1 heading and (a), (b) and (c) of
36 Title 23, amended April 14, 2014 (P.L.388, No.29) and May 14,
37 2014 (P.L.653, No.45), are amended to read:

38 § 6344.1. Information relating to [family] certified or
39 registered day-care home residents.

40 (a) General rule.--In addition to the requirements of
41 section 6344 (relating to [information relating to prospective
42 child-care personnel] employees having contact with children;
43 adoptive and foster parents), an individual who applies to the
44 department for a certificate of compliance or a registration
45 certificate to [operate a family day-care home] provide child
46 day care in a residence shall include criminal history record
47 and child abuse record information required under section
48 6344(b) for every individual 18 years of age or older who
49 resides in the home for at least 30 days in a calendar year.

50 (b) Required information.--Child abuse record information
51 required under subsection (a) shall include certification by the

1 department as to whether the applicant is named in the Statewide
2 database as the perpetrator of a founded report or an indicated
3 report [of child abuse].

4 (c) Effect on certification or registration.--The department
5 shall refuse to issue or renew a certificate of compliance or
6 registration certificate or shall revoke a certificate of
7 compliance or registration certificate if the [family] day-care
8 home provider or individual 18 years of age or older who has
9 resided in the home for at least 30 days in a calendar year:

10 (1) is named in the Statewide database [on child abuse
11 established under Chapter 63 (relating to child protective
12 services)] as the perpetrator of a founded report committed
13 within the immediately preceding five-year period; or

14 (2) has been convicted of an offense enumerated in
15 section 6344(c).

16 * * *

17 Section 10. Section 6344.2 of Title 23, amended May 14, 2014
18 (P.L.653, No.45), is amended to read:

19 § 6344.2. [Information relating to other persons] Volunteers
20 having contact with children.

21 (a) Applicability.--[This section applies to prospective
22 employees applying to engage in occupations with a significant
23 likelihood of regular contact with children, in the form of
24 care, guidance, supervision or training. Such persons include
25 social service workers, hospital personnel, mental health
26 professionals, members of the clergy, counselors, librarians and
27 doctors.] This section applies to an adult applying for an
28 unpaid position as a volunteer responsible for the welfare of a
29 child or having direct contact with children.

30 [(a.1) School employees.--This section shall apply to school
31 employees as follows:

32 (1) School employees governed by the provisions of the
33 act of March 10, 1949 (P.L.30, No.14), known as the Public
34 School Code of 1949, shall be subject to the provisions of
35 section 111 of the Public School Code of 1949, except that
36 this section shall apply with regard to the information
37 required under section 6344(b)(2) (relating to information
38 relating to prospective child-care personnel).

39 (2) School employees not governed by the provisions of
40 the Public School Code of 1949 shall be governed by this
41 section.]

42 (b) Investigation.--Employers, administrators [or],
43 supervisors or other persons responsible for [employment
44 decisions or] selection of volunteers shall require an applicant
45 to submit to all requirements set forth in section 6344(b)
46 (relating to employees having contact with children; adoptive
47 and foster parents) except as provided in subsection (b.1). An
48 employer, administrator, supervisor or other person responsible
49 for [employment decisions or] selection of volunteers regarding
50 an applicable prospective [employee or] volunteer under this
51 section that intentionally fails to require the submissions

1 before hiring that individual commits a misdemeanor of the third
2 degree.

3 (b.1) Exception.--

4 (1) A person responsible for the selection of volunteers
5 under this chapter shall require an applicable prospective
6 volunteer prior to the commencement of service to submit only
7 the information under section 6344(b)(1) and (2), if the
8 following apply:

9 (i) The position the prospective volunteer is
10 applying for is unpaid.

11 (ii) The prospective volunteer has been a resident
12 of this Commonwealth during the entirety of the previous
13 ten-year period.

14 (iii) The prospective volunteer swears or affirms in
15 writing that the prospective volunteer is not
16 disqualified from service pursuant to section 6344(c) or
17 has not been convicted of an offense similar in nature to
18 those crimes listed in section 6344(c) under the laws or
19 former laws of the United States or one of its
20 territories or possessions, another state, the District
21 of Columbia, the Commonwealth of Puerto Rico or a foreign
22 nation, or under a former law of this Commonwealth.

23 (2) If the information obtained pursuant to section
24 6344(b) reveals that the prospective volunteer applicant is
25 disqualified from service pursuant to section 6344(c), the
26 applicant shall not be approved for service.

27 (c) Grounds for denial.--Each [applicant] prospective
28 volunteer shall be subject to the requirements of section
29 6344(c).

30 (d) Departmental treatment of information.--Information
31 provided and compiled under this section by the department shall
32 be confidential and shall not be subject to the act of [June 21,
33 1957 (P.L.390, No.212), referred to as the Right-to-Know Law]
34 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.
35 This information shall not be released except as permitted by
36 the department through regulation. The department may charge a
37 fee to conduct a certification as required by section 6344(b)(2)
38 in accordance with the provisions of section 6344(h). The
39 department shall promulgate regulations necessary to carry out
40 this subsection.

41 (e) Construction.--Nothing in this section shall be
42 construed to prohibit an organization from requiring additional
43 information as part of the clearance process for volunteers who
44 are responsible for the welfare of a child or have direct
45 contact with children.

46 (f) Provisional clearances for volunteers.--Employers,
47 administrators, supervisors or other persons responsible for
48 selection of volunteers may allow a volunteer to serve on a
49 provisional basis for a single period not to exceed 30 days if
50 the volunteer is in compliance with the clearance standards
51 under the law of the jurisdiction where the volunteer is

1 domiciled.
2 Section 11. Title 23 is amended by adding sections to read:
3 § 6344.3. Continued employment or participation in program,
4 activity or service.
5 (a) (Reserved).
6 (b) (Reserved).
7 (c) (Reserved).
8 (d) (Reserved).
9 (e) Noninterference with decisions.--Nothing in this chapter
10 shall be construed to otherwise interfere with the ability of an
11 employer or program, activity or service to make employment,
12 discipline or termination decisions or establishing additional
13 clearance standards.
14 (f) Transfer.--
15 (1) Any person who has obtained the information required
16 under this chapter may transfer or provide services to
17 another subsidiary or branch established and supervised by
18 the same organization, or serve in a volunteer capacity for
19 any program, service or activity, during the length of time
20 the person's certification is current pursuant to section
21 6344.4 (relating to certification compliance).
22 (2) Any employee who begins employment with a new
23 agency, institution, organization or other entity that is
24 responsible for the care, supervision, guidance or control of
25 children shall be required to obtain a new certification of
26 compliance as required by this chapter.
27 (g) Written notice of new arrest, conviction or
28 substantiated child abuse.--
29 (1) If an employee or volunteer subject to section 6344
30 (relating to employees having contact with children; adoptive
31 and foster parents) or 6344.2 (relating to volunteers having
32 contact with children) is arrested for or convicted of an
33 offense that would constitute grounds for denying employment
34 or participation in a program, activity or service under this
35 chapter, or is named as perpetrator in a founded or indicated
36 report, the employee or volunteer shall provide the
37 administrator or designee with written notice not later than
38 72 hours after the arrest, conviction or notification that
39 the person has been listed as a perpetrator in the Statewide
40 database.
41 (2) If the person responsible for employment decisions
42 or the administrator of a program, activity or service has a
43 reasonable belief that an employee or volunteer was arrested
44 or convicted for an offense that would constitute grounds for
45 denying employment or participation in a program, activity or
46 service under this chapter, or was named as perpetrator in a
47 founded or indicated report, or the employee or volunteer has
48 provided notice as required under this section, the person
49 responsible for employment decisions or administrator of a
50 program, activity or service shall immediately require the
51 employee or volunteer to submit current information as

1 required under subsection 6344(b). The cost of the
2 information set forth in subsection 6344(b) shall be borne by
3 the employing entity or program, activity or service.

4 (h) Effect of noncompliance.--An employee or volunteer who
5 willfully fails to disclose information required by subsection
6 (g)(1) commits a misdemeanor of the third degree and shall be
7 subject to discipline up to and including termination or denial
8 of employment or volunteer position.

9 § 6344.4. Certification compliance.

10 New certifications shall be obtained in accordance with the
11 following:

12 (1) Effective December 31, 2014:

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

17 (ii) School employees identified in section
18 6344(a.1)(1) shall be required to obtain reports under
19 section 111 of the act of March 10, 1949 (P.L.30, No.14),
20 known as the Public School Code of 1949, every 36 months.

21 (iii) Any person identified in section 6344 with a
22 current certification issued prior to the effective date
23 of this section shall be required to obtain the
24 certifications required by this chapter within 36 months
25 from the date of their most recent certification, or, if
26 the current certification is older than 36 months, within
27 one year of the effective date of this section.

28 (2) Effective July 1, 2015, a person identified in
29 section 6344.2 (relating to volunteers having contact with
30 children) shall be required to obtain the certifications
31 required by this chapter every 36 months.

32 Section 12. Section 6349(c) of Title 23 is amended to read:
33 § 6349. Penalties.

34 * * *

35 (c) Noncompliance with child-care personnel regulations.--An
36 administrator, or other person responsible for employment
37 decisions in a child-care facility or program, who willfully
38 fails to comply with the provisions of section 6344 (relating to
39 [information relating to prospective child-care personnel]
40 employees having contact with children; adoptive and foster
41 parents) commits a violation of this chapter and shall be
42 subject to a civil penalty as provided in this subsection. The
43 department shall have jurisdiction to determine violations of
44 section 6344 and may, following a hearing, assess a civil
45 penalty not to exceed \$2,500. The civil penalty shall be payable
46 to the Commonwealth.

47 Section 13. Section 6383(a.2) of Title 23, added April 15,
48 2014 (P.L.417, No.33), is amended to read:

49 § 6383. Education and training.

50 * * *

51 (a.2) Information for mandated and permissive reporters.--

1 * * *

2 (3) The department shall include the following with all
3 certifications provided pursuant to section 6344(b)(2)
4 (relating to [information relating to prospective child-care
5 personnel] employees having contact with children; adoptive
6 and foster parents):

7 (i) Information that certain persons are required by
8 law to report suspected child abuse.

9 (ii) The Internet address where the information and
10 guidance required by this subsection can be obtained.

11 (iii) A telephone number and mailing address where
12 guidance materials can be requested by individuals who
13 cannot access the department's Internet website.

14 * * *

15 Section 14. Section 6351.1(a) of Title 42 is amended to
16 read:

17 § 6351.1. Authority of court upon petition to remove child from
18 foster parent.

19 (a) Order required.--Notwithstanding sections 6324 (relating
20 to taking into custody) and 6351(a) (relating to disposition of
21 dependent child), if a county agency petitions the court for
22 removal of a child because the foster parent has been convicted
23 of an offense set forth in 23 Pa.C.S. § 6344(c) (relating to
24 [information relating to prospective child-care personnel]
25 employees having contact with children; adoptive and foster
26 parents), the court shall immediately enter an order removing
27 the child from the foster parent.

28 * * *

29 Section 15. The Department of Human Services, in conjunction
30 with the Department of Education and the Pennsylvania Commission
31 on Crime and Delinquency, shall conduct a study to analyze and
32 make recommendations on employment bans for those having contact
33 with children in this Commonwealth. The following apply:

34 (1) The study shall include recommendations on all of
35 the following:

36 (i) Changes in permanent and temporary employment
37 bans, which realign and make uniform the provisions of
38 section 111 of the act of March 10, 1949 (P.L.30, No.14),
39 known as the Public School Code of 1949, and 23 Pa.C.S.
40 Ch. 63 with regard to employment bans, including the
41 offenses relating to the welfare of a child to be
42 included in any ban.

43 (ii) An appeals process.

44 (2) The Department of Human Services shall, by December
45 31, 2015, report the study's findings and recommendations to:

46 (i) The chairman and minority chairman of the Aging
47 and Youth Committee of the Senate.

48 (ii) The chairman and minority chairman of the
49 Public Health and Welfare Committee of the Senate.

50 (iii) The chairman and minority chairman of the
51 Children and Youth Committee of the House of

1 Representatives.
2 (iv) The chairman and minority chairman of the
3 Health Committee of the House of Representatives.
4 Section 16. This act shall take effect as follows:
5 (1) The following provisions shall take effect
6 immediately:
7 (i) Section 15 of this act.
8 (ii) This section.
9 (2) The remainder of this act shall take effect December
10 31, 2014.