

No. 2007-73

AN ACT

HB 1961

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for information relating to prospective child-care personnel.

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

Section 1. Section 6344(b), (d)(1), (2), (3), (4) and (5), (e), (f) and (k) of Title 23 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding a subsection to read:

§ 6344. Information relating to prospective child-care personnel.

(b) Information submitted by prospective employees.—Administrators of child-care services shall require applicants to submit with their applications the following information obtained within the preceding one-year period:

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

(2) A certification from the department as to whether the applicant is named in the central register as the perpetrator of a founded report of child abuse, indicated report of child abuse, founded report for school employee or indicated report for school employee.

(3) **[Where the applicant is not a resident of this Commonwealth, administrators shall require the applicant to submit with the application for employment a] A** report of Federal criminal history record information. The applicant shall submit a full set of fingerprints **[to] in a manner prescribed by** the department. The **[department] Commonwealth** shall submit the fingerprints to the Federal Bureau of Investigation in order to obtain a report of Federal criminal history record information and serve as intermediary for the purposes of this section.

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

(b.1) Information submitted by certain prospective employees.—

(1) Notwithstanding any other provision of this chapter, this subsection shall apply to persons who apply for employment under

subsection (c) on or after the effective date of this subsection and before July 1, 2008. The provisions of subsection (b) shall not apply to persons who apply for employment under subsection (c) on or after the effective date of this subsection and before July 1, 2008.

(2) Administrators of child-care services shall require applicants to submit with their applications the following information obtained within the preceding one-year period:

(i) Pursuant to 18 Pa.C.S. Ch. 91, a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2).

(ii) A certification from the department as to whether the applicant is named in the central register as the perpetrator of a founded report of child abuse, indicated report of child abuse, founded report for school employee or indicated report for school employee.

(iii) Where the applicant is not a resident of this Commonwealth, administrators shall require the applicant to submit with the application for employment a report of Federal criminal history record information. The applicant shall submit a full set of fingerprints to the department. The department shall submit the fingerprints to the Federal Bureau of Investigation in order to obtain a report of Federal criminal history record information and serve as intermediary for the purposes of this section.

(3) For the purposes of this subsection, an applicant may submit a copy of the required information with an application for employment. Administrators shall maintain a copy of the required information and shall require applicants to produce the original document prior to employment.

(4) This subsection shall expire July 1, 2008.

(d) Prospective adoptive or foster parents.—With regard to prospective adoptive or prospective foster parents, the following shall apply:

*(1) In the course of causing an investigation to be made pursuant to section 2535(a) (relating to investigation), an agency or person designated by the court to conduct the investigation shall require prospective adoptive parents and any individual over the age of 18 years residing in the home to submit the information set forth in subsection [(b)(1) and (2)] (b) for review in accordance with this section. *If a prospective adoptive parent, or any individual over 18 years of age residing in the home, has resided outside this Commonwealth at any time within the previous five-year period, the agency or person designated by the court shall require that person to submit a certification obtained within the previous one-**

year period from the Statewide central registry, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator of child abuse. If the certification shows that the person is named as a perpetrator of child abuse within the previous five-year period, the agency or person designated by the court shall forward the certification to the department for review. The agency or person designated by the court shall not approve the prospective adoptive parent if the department determines that the person is named as the equivalent of a perpetrator of a founded report of child abuse within the previous five-year period.

(2) In the course of approving a prospective foster parent, a foster family care agency shall require prospective foster parents and any individual over the age of 18 years residing in the home to submit the information set forth in subsection [(b)(1) and (2)] (b) for review by the foster family care agency in accordance with this section. *If a prospective foster parent, or any individual over 18 years of age residing in the home, has resided outside this Commonwealth at any time within the previous five-year period, the foster family care agency shall require that person to submit a certification obtained within the previous one-year period from the Statewide central registry, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator of child abuse. If the certification shows that the person is named as a perpetrator of child abuse within the previous five-year period, the foster family care agency shall forward the certification to the department for review. The foster family care agency shall not approve the prospective foster parent if the department determines that the person is named as the equivalent of a perpetrator of a founded report of child abuse within the previous five-year period.* In addition, the foster family care agency shall consider the following when assessing the ability of applicants for approval as foster parents:

(i) The ability to provide care, nurturing and supervision to children.

(ii) Mental and emotional well-being. If there is a question regarding the mental or emotional stability of a family member which might have a negative effect on a foster child, the foster family care agency shall require a psychological evaluation of that person before approving the foster family home.

(iii) Supportive community ties with family, friends and neighbors.

(iv) Existing family relationships, attitudes and expectations regarding the applicant's own children and parent/child relationships, especially as they might affect a foster child.

(v) Ability of the applicant to accept a foster child's relationship with his own parents.

(vi) The applicant's ability to care for children with special needs.

(vii) Number and characteristics of foster children best suited to the foster family.

(viii) Ability of the applicant to work in partnership with a foster family care agency. This subparagraph shall not be construed to preclude an applicant from advocating on the part of a child.

(3) Foster parents and any individual over 18 years of age residing in the home shall be required to submit the information set forth in subsection [(b)(1) and (2)] (b) every 24 months following approval for review by the foster family care agency in accordance with subsection (c).

(4) Foster parents shall be required to report, within 48 hours, any change in information required pursuant to subsection [(b)(1) and (2)] (b) about themselves and any individuals over the age of 18 years residing in the home for review by the foster family care agency in accordance with subsection (c).

(5) Foster parents shall be required to report any other change in the foster family household composition within 30 days of the change for review by the foster family care agency. *If any individual over 18 years of age, who has resided outside this Commonwealth at any time within the previous five-year period, begins residing in the home of an approved foster family, that individual shall, within 30 days of beginning residence, submit to the foster family care agency a certification obtained within the previous one-year period from the Statewide central registry, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator of child abuse. If the certification shows that the person is named as a perpetrator of child abuse within the previous five-year period, the foster family care agency shall forward the certification to the department for review. If the department determines that the person is named as the equivalent of a perpetrator of a founded report of child abuse within the previous five-year period and the person does not cease residing in the home immediately, the foster child or children shall immediately be removed from the home without a hearing.*

* * *

(e) Self-employed family day-care providers.—Self-employed family day-care providers who apply for a certificate of registration with the department shall submit with their registration application [a report of criminal history record information and shall also obtain certification from the department as to whether the applicant is named in the central register as the perpetrator of a founded report of child abuse.] *the information set forth under subsection (b) for review in accordance with this section.*

(f) Submissions by operators of child-care services.—The department shall require persons seeking to operate child-care services to submit the

information set forth in subsection [(b)(1) and (2)] (b) for review in accordance with this section.

* * *

(k) Existing or transferred employees.—A person employed in child-care services on [January 1, 1986] *July 1, 2008*, shall not be required to obtain the information required in subsection [(b)(1) and (2)] (b) as a condition of continued employment. A person who has once obtained the information required under subsection [(b)(1) and (2)] (b) may transfer to another child-care service established and supervised by the same organization and shall not be required to obtain additional reports before making the transfer.

* * *

Section 2. This act shall take effect as follows:

- (1) This section shall take effect immediately.
- (2) The addition of 23 Pa.C.S. § 6344(b.1) shall take effect immediately.
- (3) The amendment of 23 Pa.C.S. § 6344(b) and (d)(1), (2), (3), (4) and (5) shall take effect January 1, 2008.
- (4) The amendment of 23 Pa.C.S. § 6344(e), (f) and (k) shall take effect July 1, 2008.

APPROVED—The 18th day of December, A.D. 2007.

EDWARD G. RENDELL