

Changes in Pennsylvania Law Pertaining to Child Abuse With Passage of House Bill No. 435 on October 22, 2014

BACKGROUND CERTIFICATIONS

1. Employees—Effective December 31, 2014

All individuals 14 years of age or older who apply for a paid position as an employee responsible for the welfare of a child or having direct contact with children will be required to submit the following information to their prospective employer, and thereafter, assuming the individual becomes employed, the same certifications will be required every 36 months:

1. Pennsylvania Criminal History report from the Pennsylvania State Police (\$10);
2. Certification from the Pennsylvania Department of Human Services (\$10); and
3. Federal Criminal History report from the FBI, which shall include submission of the individual's fingerprints to the Pennsylvania State Police (\$27.50).

2. Volunteers – Effective July 1, 2015

All individuals 18 years of age or older who apply for an unpaid position as a volunteer responsible for the welfare of a child or having direct contact with children will be required to submit the same information as set forth above for employees having direct contact with children, and thereafter, assuming the individual becomes a volunteer, the same certifications will be required every 36 months. However, only the Pennsylvania Criminal History report and the Certification from the Pennsylvania Department of Human Services will be required for a volunteer if the following 3 conditions apply:

1. the volunteer position is in fact unpaid;
2. the prospective volunteer has been a Pennsylvania resident for a period of no less than 10 years immediately prior to the application for a volunteer position; and
3. the prospective volunteer swears or affirms in writing that he/she is not disqualified from service under the provisions of the law ~~(this document will be prepared by the Conference's legal counsel).~~

An employer or individual who intentionally fails to require an applicant for employment or volunteer service to submit the required certifications commits a misdemeanor of the 3rd degree.

MANDATED REPORTS

Prior to passage of House Bill No. 435, a mandated reporter (including but not limited to any paid or unpaid individual who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, accepts responsibility for a child) was required to "make a report of suspected child abuse or cause a report to be made." This requirement could be satisfied, for example, by a camp volunteer making the report directly to CHILDLINE: 800-932-0313 or advising the camp director who in turn would make the report.

Effective December 31, 2014, the former process of “causing a report to be made” will no longer be permissible. Rather, the mandated reporter (i.e., the volunteer in the above example) will be required to make the report directly to CHILDLINE: 800-932-0313. This does not mean that the volunteer cannot or should not advise the camp director of the incident/reasonable cause to believe child abuse has occurred (assuming the camp director is not the alleged perpetrator) prior to making the mandated report, as the camp director may be able to facilitate the report being made as promptly as possible.

BACKGROUND CERTIFICATIONS ARE TRANSFERABLE BETWEEN DIFFERENT PROGRAMS IN THE SAME ORGANIZATION.

Any person who has obtained the required certifications may transfer or provide services to another subsidiary or branch established and supervised by the same organization, or serve in a volunteer capacity for any program, service or activity (even if outside the former organization), during the length of time the person’s certifications are current.

WRITTEN NOTICE REQUIREMENT FOR EMPLOYEES AND VOLUNTEERS

If any employee or volunteer subject to the background certification requirements (i) is arrested for, or convicted of, a crime that would constitute grounds for denying employment or volunteer service, or (ii) is named as a perpetrator in a Founded or Indicated Report, such employee or volunteer must provide written notice within 72 hours to the appropriate administrator of the employer/organization for whom he/she is employed or volunteering. An employee or volunteer who knowingly fails to do so commits a misdemeanor of the 3rd degree.

Upon receipt of such written notice from any employee or volunteer subject to the background certification requirements, the administrator must immediately require the employee or volunteer to satisfy the certification requirements once again, at the cost of the employer/organization.