

No. 2015-15

## AN ACT

HB 1276

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child protective services, further providing for definitions, for persons required to report suspected child abuse, for access to information in Statewide database, for release of information in confidential reports, for employees having contact with children and adoptive and foster parents, for information relating to certified or registered day-care home residents, for volunteers having contact with children, for continued employment or participation in program, activity or service, for certification compliance, for education and training and for mandatory reporting of children under one year of age.

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

Section 1. The definitions of "child-care services," "independent contractor," "perpetrator," "person responsible for the child's welfare," "program, activity or service," "school" and "school employee" in section 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding definitions to read:

§ 6303. Definitions.

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

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***"Adult family member." A person 18 years of age or older who has the responsibility to provide care or services to an individual with an intellectual disability or chronic psychiatric disability.***

\* \* \*

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

- (1) Child day-care centers.
- (2) Group day-care homes.
- (3) Family [**day-care**] **child-care** homes.
- (4) Foster homes.
- (5) Adoptive parents.
- (6) Boarding homes for children.
- (7) Juvenile detention center services or programs for delinquent or dependent children.
- (8) Mental health services for children.
- (9) Services for children with intellectual disabilities.
- (10) Early intervention services for children.
- (11) Drug and alcohol services for children.
- (12) Day-care services or programs that are offered by a school.
- (13) Other child-care services that are provided by or subject to approval, licensure, registration or certification by the department or a county social services agency or that are provided pursuant to a contract with the department or a county social services agency.

*The term does not apply to services provided by administrative or other support personnel unless the administrative or other support personnel have direct contact with children.*

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*"Direct volunteer contact." The care, supervision, guidance or control of children and routine interaction with children.*

*"Education enterprise." An educational activity in this Commonwealth:*

*(1) for which college credits or continuing education units are awarded, continuing professional education is offered or tuition or fees are charged or collected; and*

*(2) that is sponsored by a corporation, entity or institution that is incorporated or authorized by other means in a state other than this Commonwealth and is approved and authorized to operate in this Commonwealth under 15 Pa.C.S. Pt. II Subpt. B (relating to business corporations) or C (relating to nonprofit corporations) and 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).*

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*"Family child-care home." A residence where child day care is provided at any time to no less than four children and no more than six children who are not relatives of the caregiver.*

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*"Immediate vicinity." An area in which an individual is physically present with a child and can see, hear, direct and assess the activities of the child.*

*"Independent contractor." An individual who provides a program, activity or service to an agency; institution, organization or other entity, including a school or regularly established religious organization, that is responsible for the care, supervision, guidance or control of children. The term does not [include an individual who has no] apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.*

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*"Institution of higher education." Any of the following:*

*(1) A community college which is an institution now or hereafter created pursuant to Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, or the act of August 24, 1963 (P.L.1132, No.484), known as the Community College Act of 1963.*

*(2) An independent institution of higher education which is an institution of higher education located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in 24 Pa.C.S. § 6505 (relating to power to confer degrees) and entitled to apply to itself the designation "college," "university" or "seminary" as provided for by standards and qualifications prescribed by the State Board of Education under 24 Pa.C.S. Ch. 65.*

*(3) A State-owned institution.*

*(4) A State-related institution.*

**(5) An education enterprise.**

\* \* \*

**"Matriculated student."** *A student who is enrolled in an institution of higher education and pursuing a program of study that results in a postsecondary credential, such as a certificate, diploma or degree.*

\* \* \*

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

(1) The term includes only the following:

(i) A parent of the child.

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

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

(iv) A person 14 years of age or older and responsible for the child's welfare *or having direct contact with children as an employee of child-care services, a school or through a program, activity or service.*

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

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

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

(i) A parent of the child.

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

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

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

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

\* \* \*

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

\* \* \*

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

(1) A youth camp or program.

(2) A recreational camp or program.

(3) A sports or athletic program.

(4) **[An]** *A community or social outreach program.*

(5) An enrichment *or educational* program.

(6) A troop, club or similar organization.

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***"Routine interaction." Regular and repeated contact that is integral to a person's employment or volunteer responsibilities.***

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"School." A facility providing elementary, secondary or postsecondary educational services. The term includes the following:

(1) Any school of a school district.

(2) An area vocational-technical school.

(3) A joint school.

(4) An intermediate unit.

(5) A charter school or regional charter school.

(6) A cyber charter school.

(7) A private school licensed under the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act.

(8) A private school accredited by an accrediting association approved by the State Board of Education.

(9) A nonpublic school.

(10) [A community college which is an institution now or hereafter created pursuant to Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, or the act of August 24, 1963 (P.L.1132, No.484), known as the Community College Act of 1963.

(11) An independent institution of higher education which is an institution of higher education which is operated not for profit, located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in 24 Pa.C.S. § 6505 (relating to power to confer degrees) and entitled to apply to itself the designation "college" or "university" as provided for by standards and qualifications prescribed by the State Board of Education pursuant to 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).

(12) A State-owned university.

(13) A State-related university.] *An institution of higher education.*

(14) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.

(15) The Hiram G. Andrews Center.

(16) A private residential rehabilitative institution as defined in section 914.1-A(c) of the Public School Code of 1949.

"School employee." An individual who is employed by a school or who provides a program, activity or service sponsored by a school. The term [excludes an individual who has no] *does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.*

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Section 2. Section 6311(a)(7) and (12) of Title 23 are amended and the subsection is amended by adding a paragraph to read:

§ 6311. Persons required to report suspected child abuse.

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

\* \* \*

(7) An individual paid or unpaid, 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] is a person responsible for the child's welfare or has direct contact with children.**

\* \* \*

(12) An individual supervised or managed by a person listed under paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) **[and]**, (11) **and** (13), who has direct contact with children in the course of employment.

\* \* \*

**(16) An adult family member who is a person responsible for the child's welfare and provides services to a child in a family living home, community home for individuals with an intellectual disability or host home for children which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.**

\* \* \*

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

§ 6335. Access to information in Statewide database.

\* \* \*

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

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

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

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

\* \* \*

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

§ 6340. Release of information in confidential reports.

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

\* \* \*

***(18) The Department of the Auditor General in conjunction with the performances of the duties designated to the Office of Auditor General, except that the Auditor General may not remove identifiable reports or copies thereof from the department or county agency.***

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Section 5. Section 6344(a), (a.1), (b), (b.1), (b.2), (d)(4.1), (5), (6) and (8) and (e) of Title 23, amended October 22, 2014 (P.L.2529, No.153), are amended and the section is amended by adding subsections to read:

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

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

(1) An employee of child-care services.

(2) A foster parent.

(3) A prospective adoptive parent.

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

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

***(ii) If the program, activity or service is an internship, externship, work study, co-op or similar program, an adult applying for or holding a paid position with an employer that participates in the internship, externship, work study, co-op or similar program with a school and whom the employer and the school identify as the child's supervisor and the person responsible for the child's welfare while the child participates in the program with the employer. The adult identified under this subparagraph as the person responsible for the child's welfare is required to be in the immediate vicinity at regular intervals with the child during the program.***

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

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

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

***(i) A family living home.***

***(ii) A community home for individuals with an intellectual disability.***

***(iii) A host home for children.***

***This paragraph does not include an individual with an intellectual disability or chronic psychiatric disability receiving services in a home.***

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

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

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

(ii) *This paragraph shall not apply to an employee of an institution of higher education whose direct contact with children, in the course of employment, is limited to either:*

*(A) prospective students visiting a campus operated by the institution of higher education; or*

*(B) matriculated students who are enrolled with the institution.*

(iii) *The exemption under subparagraph (ii)(B) shall not apply to students who are enrolled in a secondary school.*

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

*(1) The individual has been a resident of this Commonwealth during the entirety of the previous 10-year period or, if not a resident of this Commonwealth during the entirety of the previous 10-year period, has received certification under subsection (b)(3) at any time since establishing residency in this Commonwealth and provides a copy of the certification to the employer.*

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

(a.3) *Exchange visitor.—An individual in possession of a nonimmigrant visa issued pursuant to 8 U.S.C. § 1101(a)(15)(J) (relating to definitions) to an exchange visitor, commonly referred to as a "J-1" Visa, shall not be required to submit information under subsection (b) if all of the following apply:*

*(1) The individual is applying for or holds a paid position with a program, activity or service for a period not to exceed a total of 90 days in a calendar year.*

**(2) *The individual has not been employed previously in this Commonwealth or another state, the District of Columbia or the Commonwealth of Puerto Rico.***

**(3) *The individual swears or affirms in writing that the individual is not disqualified from service under subsection (c) or has not been convicted of an offense similar in nature to the crimes listed under subsection (c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.***

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

(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 Statewide database as the alleged perpetrator in a pending child abuse investigation or as the perpetrator of a founded report or an indicated report.

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

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

(b.2) Investigation.—An employer, administrator, supervisor or other person responsible for employment decisions shall require an applicant to submit the required documentation set forth in this chapter **or as required in section 6344.4**. An employer, administrator, supervisor or other person responsible for employment decisions that intentionally fails to require an



applicant to submit the required documentation before the applicant's hiring *or upon recertification* commits a misdemeanor of the third degree.

**(b.3) Volunteer certification prohibition.**—*An employer, administrator, supervisor or other person responsible for employment decisions is prohibited from accepting a certification that was obtained for volunteering purposes under section 6344.2 (relating to volunteers having contact with children).*

\* \* \*

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

\* \* \*

(4.1) If a foster parent, *prospective adoptive parent or an individual over 18 years of age residing in the home* is arrested for or convicted of an offense that would constitute grounds for denying approval under this chapter or is named as a perpetrator in a founded or indicated report, the foster parent *or prospective adoptive parent* shall provide the foster family care agency *or the agency listed to provide adoption services* with written notice not later than 72 hours after the arrest, conviction or notification that the [foster parent] *individual* was named as a perpetrator in the Statewide database.

(5) Foster parents *and prospective adoptive 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 *or the agency listed to provide adoption services*. 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 *or a prospective adoptive family*, that individual shall, within 30 days of beginning residence, submit to the foster family care agency *or the agency listed to provide adoption services* a certification obtained from the Statewide database, 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. If the certification shows that the person is named as a perpetrator within the previous five-year period, the foster family care agency *or the agency listed to provide adoption services* 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 within the previous five-year period and the person does not cease residing in the home immediately, the county agency shall immediately seek court authorization to remove the foster child or children from the home. In emergency situations when a judge cannot be reached, the county agency shall proceed in accordance with the Pennsylvania Rules of Juvenile Court Procedure.

(6) In cases where foster parents knowingly fail to submit the material information required in paragraphs (4.1) and (5) and section 6344.4 [(relating to certification compliance)] such that it would disqualify them as foster parents, the county agency shall immediately seek court authorization to remove the foster child or children from the home. In emergency situations when a judge cannot be reached, the

county agency shall proceed in accordance with the Pennsylvania Rules of Juvenile Court Procedure.

\* \* \*

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

- (i) Previous addresses within the last [ten] 10 years.
- (ii) Criminal history background [clearance] *certification* generated by the process outlined in this section.
- (iii) Child abuse [clearance] *certification* generated by the process outlined in this section.
- (iv) Composition of the resident family unit.
- (v) Protection from abuse orders filed by or against either parent, provided that such orders are accessible to the county or private agency.
- (vi) Details of any proceedings brought in family court, provided that such records in such proceedings are accessible to the county or private agency.
- (vii) Drug-related or alcohol-related arrests, if criminal charges or judicial proceedings are pending, and any convictions or hospitalizations within the last five years. If the applicant provides information regarding convictions or hospitalizations in that five-year period, then information on the prior five years shall be requested related to any additional convictions or hospitalizations.
- (viii) Evidence of financial stability, including income verification, employment history, current liens and bankruptcy findings within the last [ten] 10 years.
- (ix) Number of and ages of foster children and other dependents currently placed in the home.
- (x) Detailed information regarding children with special needs currently living in the home.
- (xi) Previous history as a foster parent, including number and types of children served.
- (xii) Related education, training or personal experience working with foster children or the child welfare system.

\* \* \*

*(d.3) Family living homes, community homes for individuals with an intellectual disability and host homes.—*

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

- (i) If an individual is arrested for or convicted of an offense that would constitute grounds for denying approval under this chapter, or is named as a perpetrator in a founded or indicated report, the individual shall provide the agency with written notice not later than*

*72 hours after the arrest, conviction or notification that the individual was named as a perpetrator in the Statewide database.*

*(ii) The adult family member who is providing services to a child in the home shall be required to report any other change in the household composition within 30 days of the change for review by the 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, that individual shall, within 30 days of beginning residence, submit to the agency a certification obtained from the Statewide database, or its equivalent in each state in which the individual has resided within the previous five-year period, as to whether the person is named as a perpetrator. If the certification shows that the person is named as a perpetrator within the previous five-year period, the agency shall forward the certification to the department for review.*

*(2) This subsection shall not apply to an individual with an intellectual disability or chronic psychiatric disability receiving services in a home.*

*(3) As used in this subsection, the term "agency" means a family living home agency, community home agency for individuals with an intellectual disability or a host home agency.*

(e) Self-employed family [day-care] *child-care* providers.—Self-employed family [day-care] *child-care* providers who apply for a [certificate of registration] *license* with the department shall submit with their [registration] *licensure* application the information set forth under subsection (b) for review in accordance with this section.

\* \* \*

Section 6. Section 6344.1 heading, (a) and (c) of Title 23, amended October 22, 2014 (P.L.2529, No.153), are amended to read:

§ 6344.1. Information relating to certified or [registered day-care] *licensed child-care* home residents.

(a) General rule.—In addition to the requirements of section 6344 (relating to employees having contact with children; adoptive and foster parents), an individual who applies to the department for a certificate of compliance or a [registration certificate] *license* to provide child day care in a residence shall include criminal history record and child abuse record information required under section 6344(b) for every individual 18 years of age or older who resides in the home for at least 30 days in a calendar year.

\* \* \*

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

(1) is named in the Statewide database as the perpetrator of a founded report committed within the immediately preceding five-year period; or

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

\* \* \*

Section 7. Section 6344.2(a), (b), (b.1), (e) and (f) of Title 23, amended October 22, 2014 (P.L.2529, No.153), are amended and the section is amended by adding subsections to read:

§ 6344.2. Volunteers having contact with children.

(a) Applicability.—This section applies to an adult applying for *or holding* an unpaid position as a volunteer *with a child-care service, a school or a program, activity or service, as a person* responsible for the [welfare of a child] *child's welfare* or having direct *volunteer* contact with children.

(b) Investigation.—Employers, administrators, supervisors or other persons responsible for selection of volunteers shall require an applicant to submit to all requirements set forth in section 6344(b) (relating to employees having contact with children; adoptive and foster parents) except as provided in subsection (b.1). An employer, administrator, supervisor or other person responsible for selection of volunteers regarding an applicable prospective volunteer under this section that intentionally fails to require the submissions before [hiring] *approving* that individual commits a misdemeanor of the third degree.

(b.1) Exception.—

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

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

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

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

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

(3) *If all of the following apply, an individual shall not be required to obtain the certifications required under subsection (b):*

(i) *The individual is currently enrolled in a school.*

(ii) *The individual is not a person responsible for the child's welfare.*

(iii) *The individual is volunteering for an event that occurs on school grounds.*

(iv) *The event is sponsored by the school in which the individual is enrolled as a student.*

(v) *The event is not for children who are in the care of a child-care service.*

\* \* \*

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

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

(g) *Waiver of fees for certain background certifications.*—*The fees for certifications required under section 6344(b)(1) and (2) which a volunteer is required to submit under this section shall be waived, and the certifications shall be provided free of charge to the volunteer under the following conditions:*

(1) *The background certifications are necessary to comply with the requirements of subsection (b).*

(2) *The background certifications may not be used and shall not be valid to satisfy the requirements for employment under section 6344(b) or any other law for which a similar background check may be required.*

(3) *Background certifications shall only be provided free of charge to a volunteer once every 57 months.*

(4) *The volunteer swears or affirms, in writing, under penalty of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), the following:*

(i) *The background certifications are necessary to satisfy the requirements under subsection (b).*

(ii) *The volunteer has not received background certifications free of charge within the previous 57 months.*

(iii) *The volunteer understands that the certifications shall not be valid or used for any other purpose.*

(h) **Presumption of good faith.**—*For the purposes of criminal liability under this section, an employer, administrator, supervisor or other persons responsible for the selection of volunteers are presumed to have acted in good faith when identifying individuals required to submit certifications and maintain records as required by this section.*

Section 8. Sections 6344.3(e) and (f) of Title 23, added October 22, 2014 (P.L.2529, No.153), are amended to read:

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

\* \* \*

(e) Noninterference with decisions.—Nothing in this chapter shall be construed to otherwise interfere with the ability of an employer or *person responsible for a* program, activity or service to make employment, discipline or termination decisions or *from* establishing additional [clearance] standards *as part of the hiring or selection process for employees or volunteers.*

(f) [Transfer] *Portability of certification.*—

(1) Any person who has obtained the information required under this chapter 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, during the length of time the person's certification is current pursuant to section 6344.4 (relating to certification compliance).

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

(1) *Subject to the restrictions under section 6344(b.3) (relating to employees having contact with children; adoptive and foster parents), if an individual's certifications are current under section 6344.4 (relating to recertification) and the individual completes an affirmation under paragraph (2), the individual may use the certifications as follows:*

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

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

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

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

(2) *Prior to commencing employment or service, an individual must swear or affirm in writing that the individual has not been disqualified from employment or service under section 6344(c) or has not been convicted of an offense similar in nature to a crime listed in section 6344(c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.*

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

\* \* \*

§ 6344.4. [Certification compliance] *Recertification.*

New certifications shall be obtained in accordance with the following:

(1) Effective December 31, 2014:

(i) **[A] Except as provided in subparagraph (v), a person identified in section 6344 (relating to employees having contact with children; adoptive and foster parents) shall be required to obtain the certifications required by this chapter every [36] 60 months.**

(ii) School employees identified in section 6344(a.1)(1) shall be required to obtain reports under section 111 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, **and under section 6344(b)(2) every [36] 60 months.**

(iii) Any person identified in section 6344 with a current certification issued prior to the effective date of this section shall be required to obtain the certifications required by this chapter within **[36] 60 months from the date of [their most recent] the person's oldest certification or, if the current certification is older than [36] 60 months, within one year of the effective date of this section.**

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

(2) (i) Effective **[July 1,] August 25, 2015**, a person identified in section 6344.2 (relating to volunteers having contact with children) shall be required to obtain the certifications required by this chapter every **[36] 60 months[.] from the date of the person's most recent certification or, if the current certification is older than 60 months, within one year of the effective date of this section.**

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

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

Section 8.1. Sections 6383 (c)(1), (2) and (3) and 6386(a) of Title 23 are amended to read:

§ 6383. Education and training.

\* \* \*

(c) Training of persons subject to department regulation.—

(1) The following persons shall be required to meet the child abuse recognition and reporting training requirements of this subsection:

(i) Operators of institutions, facilities or agencies which care for children and are subject to supervision by the department under Article IX of the Public Welfare Code, and their employees who have direct contact with children.

(ii) Foster parents.

(iii) Operators of facilities and agencies which care for children and are subject to licensure by the department under Article X of the Public Welfare Code and their employees who have direct contact with children.

(iv) Caregivers in family **[day care] child-care** homes which are subject to **[registration] licensure** by the department under **[Subarticle (c) of]** Article X of the Public Welfare Code and their employees who have direct contact with children.

(v) *The adult family member who is a person responsible for the child's welfare and is providing services to a child in a family living home, a community home for individuals with an intellectual disability or a host home which is subject to supervision OR licensure by the department under Articles IX and X of the Public Welfare Code.*

(2) Within six months of the effective date of this subsection, operators and caregivers shall receive three hours of training prior to the issuance of a license[,] **or approval [or registration]** certificate and three hours of training every five years thereafter.

(3) Employees who have direct contact with children and foster parents shall receive three hours of training within six months of the issuance of a license[,] **or approval [or registration]** certificate and three hours of training every five years thereafter. New employees and new foster parents shall receive three hours of training within 90 days of hire or approval as a foster parent and three hours of training every five years thereafter.

\* \* \*

§ 6386. Mandatory reporting of children under one year of age.

(a) When report to be made.—A health care provider shall immediately make a report or cause a report to be made to the appropriate county agency if the provider is involved in the delivery or care of a child under one year of age who is born and identified as being affected by any of the following:

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

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

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

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

(3) A Fetal Alcohol Spectrum Disorder.

\* \* \*

Section 9. The amendment of 23 Pa.C.S. § 6344.4(2)(i) if enacted after July 1, 2015, shall be retroactive to July 1, 2015.

Section 10. This act shall take effect immediately.

APPROVED—The 1st day of July, A.D. 2015

TOM WOLF