



OFFICE OF CHILDREN, YOUTH AND FAMILIES BULLETIN
COMMONWEALTH OF PENNSYLVANIA * DEPARTMENT OF PUBLIC WELFARE

NUMBER:

ISSUE DATE:

EFFECTIVE DATE:

January 1, 2008/
July 1, 2008

SUBJECT:

Implementation of Act 73 of 2007 Amending the Child Protective Services Law

BY:

Richard J. Gold
Deputy Secretary for Children, Youth and Families

SCOPE:

COUNTY CHILDREN AND YOUTH SOCIAL SERVICE AGENCIES
COUNTY CHILDREN AND YOUTH ADVISORY COMMITTEES
PRIVATE CHILDREN AND YOUTH SOCIAL SERVICE AGENCIES
HUMAN SERVICES DIRECTORS
COUNTY COMMISSIONERS
PENNSYLVANIA CHILDREN AND YOUTH ADMINISTRATORS ASSOCIATION
PENNSYLVANIA COUNCIL OF CHILDREN, YOUTH AND FAMILY SERVICES
PENNSYLVANIA COMMUNITY PROVIDERS ASSOCIATION
OTHER INTERESTED PARTIES

PURPOSE:

The purpose of this bulletin is to transmit new requirements for fingerprint based Federal Bureau of Investigation (FBI) clearances related to Act 73 of 2007, which amended 23 Pa. C.S., Chapter 63 (relating to the Child Protective Services Law).

BACKGROUND:

On December 18, 2007, Pennsylvania Governor Edward G. Rendell signed House Bill 1961, Printer's Number 2832 into law. This amendment to the Child Protective Services Law (CPSL), known as Act 73 of 2007, is effective January 1, 2008 for prospective foster and adoptive parents and adult persons living in those homes, and July 1, 2008 for prospective child care service employees and self-employed family day care providers. Act 73 of 2007 brings Pennsylvania into compliance with Federal legislation, the Adam Walsh Child Protection and Safety Act of 2006.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Office of Children, Youth and Families Regional Directors

Origin: Bryle Zickler, (717) 705-5420, bzickler@state.pa.us

This federal legislation requires additional criminal and child abuse registry record checks on certain individuals. The federal legislation was signed into law on July 27, 2006 and was effective October 1, 2006. Pennsylvania was permitted delayed implementation as state statutory amendments were necessary to comply with the requirements of the Federal Act.

DISCUSSION:

By enacting Act 73 of 2007, the Child Protective Services Law is strengthened to provide for an increased ability to protect Pennsylvania's children by enhancing the screening requirements for individuals entrusted with the care of children. Prospective foster and adoptive parents, as well as their adult household members are required to complete a fingerprint-based federal criminal record check through the Federal Bureau of Investigation (FBI). These individuals are also required to submit for child abuse history record checks from other the states in which they resided within the previous five year period.

Pennsylvania has taken even further steps to ensure the safety of children by also requiring FBI fingerprint based criminal record checks for prospective child care service employees and self-employed family day care providers.

POLICY:

Requirements for Prospective Foster and Adoptive Parents and Adult Household Members:

Prospective foster and adoptive parents, along with any individual over the age of 18 residing in the home at least 30 calendar days per year, are currently required by the CPSL at § 6344 (d) (relating to prospective adoptive or foster parents) and Act 160 of 2004, to submit for child abuse record checks through the Department of Public Welfare (DPW) and for state criminal record checks through the Pennsylvania State Police (PSP). As of January 1, 2008, these prospective foster and adoptive parents and adult household members are required to submit a fingerprint-based federal criminal record check through the FBI. These individuals are also required to resubmit their federal criminal record checks every 24 months, pursuant to § 6344(d)(3) of the CPSL and Act 160 of 2004. All three clearances, the Pennsylvania child abuse record check, the Pennsylvania State Police criminal record check and the FBI criminal record check are valid for a one-year period following verification.

In addition to the federal criminal record checks, if a prospective foster or adoptive parent or any individual over 18 years of age residing in the home has resided outside of Pennsylvania at any time within the previous five-year period, they must request certification 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 they are named as a perpetrator of child abuse.

The requirements for submission of a child abuse record check from another state is also required within 30 days when any individual over 18 years of age, who has

resided outside of Pennsylvania within the past five years, begins residing in the home of an approved foster family. If it is determined that the individual is named as a perpetrator of child abuse within the previous five year period and it meets the equivalent of a founded report of child abuse in Pennsylvania and they do not immediately cease residing in the home, the foster child or children shall immediately be removed from the home without a hearing.

Foster families approved prior to January 1, 2008 must resubmit their clearances in accordance with §6344(d)(3) of the CPSL and Act 160 of 2004 based on their approval date. These resubmitted clearances would now include an FBI fingerprint based check.

Requirements for Child Care Service Employees:

As of July 1, 2008, prospective child care service employees will be required to submit for a federal criminal record check through the Federal Bureau of Investigation as a condition of employment. Prospective employees are currently required to submit for child abuse record checks through DPW and for state criminal record checks through the PSP.

Child care service is defined in § 6303 of the CPSL as “child-day care centers, group and family day-care homes, foster homes, adoptive parents, boarding homes for children, juvenile detention center services or programs for delinquent or dependent children; mental health, mental retardation, early intervention and drug and alcohol services for children; and other child-care services which are provided by or subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with these departments or a county social services agency. The term does not include such services or programs which may be offered by public or private schools, intermediate units or area vocational-technical schools.” The fingerprinting process for prospective child care service employees is as described under the Federal Fingerprint-Based Criminal Record Checks in the procedure section of this bulletin.

Current employees of a child care service are not required to obtain FBI clearances as a condition of continued employment. Employees may transfer to another child care service under the same organizational umbrella without having to obtain FBI clearances as a condition of transferring. This follows the same procedures already in law for child abuse and record checks through Pennsylvania and can be found in the Child Protective Services Law at § 6344 (k) (relating to existing or transferred employees). All three clearances, the Pennsylvania child abuse record check, the Pennsylvania State Police criminal record check and the FBI criminal record check are valid for a one-year period following verification

Requirements for Self-Employed Family Day Care Providers:

Self-employed family day care providers are currently required by the Child Protective Services Law at §6344 to submit for child abuse record checks through the Department of Public Welfare and for state criminal record checks through the

Pennsylvania State Police. As of July 1, 2008, these individuals will be required to submit for a federal criminal record check through the FBI. All three clearances, the Pennsylvania child abuse record check, the Pennsylvania State Police criminal record check and the FBI criminal record check are valid for a one-year period following verification

Impact on Volunteers for Children Act Program (VCA):

The Volunteers for Children Act (VCA), Pub. L. 105-251 (Sections 221 and 222) amended the National Child Protection Act of 1993 (NCPA), Pub. L. 103-209, by allowing States, in the absence of State statute or regulation, to access national criminal history record information to determine an individual's fitness to have responsibility for the safety and well-being of children. Pennsylvania implemented the Volunteers for Children Act Program in March 2003. As of January 1, 2008, agencies that were approved as qualified entities to utilize VCA for the purposes of conducting federal criminal record checks completed on their prospective employees and volunteers, including foster and adoptive parent applicants, will no longer be able to process their foster and adoptive parent applicants through this program. As of July 1, 2008, when FBI clearances are required for prospective child care service employees, VCA will only be able to be used for the purposes of processing FBI clearances for volunteers. Agencies requiring continued approval as a qualified entity in order to process FBI clearances for volunteers should have received a letter from ChildLine requesting that a new program application be submitted along with your agency's policy regarding the submission of FBI clearance requests. Any questions regarding VCA should be directed to ChildLine at 717-772-1220.

PROCEDURE:

Child Abuse and Neglect Registry Checks From Another State:

Prospective foster and adoptive parents, as well as adult household members are required to obtain certification from the Statewide central registries from any state in which they have resided within the previous five year period. The Department of Public Welfare will be posting contact information and downloadable clearance forms for the other States on the Department's website at www.dpw.state.pa.us. This information can also be obtained by contacting ChildLine.

The applicants and adult household members must obtain and complete the appropriate form(s) and forward the form(s) and any additionally required documentation or payment as required by the specific state(s) to the ChildLine and Abuse Registry along with their submission for their Pennsylvania Child Abuse History Clearances. If the application is incomplete, it will be returned to the applicant for completion. In order to establish consistent interpretation of the results, the child abuse registry checks will be returned by the other states to ChildLine where a determination will be made whether the individual's status is equivalent to a founded report of child abuse in Pennsylvania. ChildLine will then forward a letter specifying the results to the requesting applicant and/or agency.

If the department determines that the individual is named as the equivalent of a perpetrator of a founded report of child abuse within the previous five year period, then the foster or adoptive home would be prohibited from being approved.

Please be advised that the requirement to check a state maintained child abuse registry only applies to states within the United States in which the individual has resided within the preceding five years. It does **not** apply to any foreign country they have resided within the previous five year period.

Federal Fingerprint-Based Criminal Record Checks:

The Department of Public Welfare will be utilizing Cogent Systems to process fingerprint-based FBI record checks. DPW's website www.pa.cogentid.com/dpw, will allow individuals seeking employment in a child care service or approval as a foster or adoptive parent to apply online, as well as provide detailed information regarding the application process as outlined below.

The fingerprint based background check is a multiple step process. The applicant must first register with Cogent through the website, www.pa.cogentid.com/dpw, or by calling 1-888-439-2512. The applicant will pay a \$40 fee for the fingerprint service and to secure their criminal history record. Consistent with what is already in place for Pennsylvania child abuse and criminal record checks, no cash transactions or personal checks are allowed. Applicants can make their payment online using a debit or credit card or can pay using a money order or business check onsite when they have their fingerprinting completed. If payment is being made at an onsite location, arrangements must be made for this when registering. Applicants will not be permitted to have fingerprinting scanned without fully completing the registration process. If the agency is paying for the clearance, they must have an agency pay agreement established with Cogent. Agencies may obtain additional information on establishing an agency pay agreement on the website by selecting Agency Billing Agreement under Agency Use.

The applicant will then proceed to a fingerprint site that is convenient for them. Locations and hours for these sites can be found on the website by selecting Print Locations and Hours under Print Site Locations. The applicant will need to present an approved type of photo identification. Approved types of identification include a current, valid and unexpired picture identification document. As a primary form of picture identification, a state-issued driver's license may be presented by an applicant when being fingerprinted.

For those applicants without a driver's license, a state identification card may be presented if the state's identification card standards are the same as for the driver's license.

However, in the absence of a new driver's license applicants may provide one or more **Secondary Documents** including:

- State Government Issued Certificate of Birth

- US Active Duty/Retiree/Reservist Military ID Card (000 10-2)
- US Passport
- Social Security Card
- Certificate of Citizenship (N560)
- Certificate of Naturalization (N550)
- INS I-551 Resident Alien Card Issued since 1997
- INS 1-688 Temporary Resident Identification Card
- INS I-688B, I-766 Employment Authorization Card

Secondary Documentation must be supported by at least two of the following:

- Utility Bill (Address)
- Voter Registration Card
- Vehicle Registration Card/Title
- Paycheck Stub with Name/Address
- Cancelled Check or Bank Statement

After the process is complete, the applicant's scanned fingerprints will be electronically transmitted to the Pennsylvania State Police, who in turn submit the fingerprints and demographic information to the Federal Bureau of Investigation. The State Police will compare the fingerprints to their latent database which contains fingerprints taken from crime scenes that remain unsolved, as well as their wanted persons database. The Department of Public Welfare will receive the completed federal criminal history record check from the Federal Bureau of Investigation and will interpret the results to determine if the individual has been convicted of a crime that is equivalent to a prohibitive hire as outlined in §6344 of the CPSL. ChildLine will then forward a letter with the results to the applicant. If the Agency paid for the clearance and the agency information section was completed on the initial application, the results will go directly back to the agency. A copy of the results will also be sent to the applicant upon request. If the results were returned directly to the applicant, they are responsible for providing the results letter to their prospective employer or foster care/adoption agency.

The fingerprints are retained by Cogent until it is determined that the process has been successfully completed and the applicant has the results. It is possible that the fingerprints may be rejected by the Federal Bureau of Investigation. Poor fingerprint detail may be caused by age, trade, or some other environmental/physical condition. In the case of an fingerprint rejection by the FBI, applicants are requested by the FBI to submit a second set of fingerprints, at no charge to the applicant. This second submission must occur before alternative means of conducting a federal background can be initiated. If an applicant receives an FBI rejection letter they must submit a second set of fingerprints if they wish to complete their applicant background check. Individuals should take their rejection letter and proper identification to the nearest Pennsylvania Fingerprint location. A second fingerprint submittal will be conducted at no charge. Individuals **do not** need to re-register for their second fingerprinting session if they received an FBI rejection letter. If an individuals fingerprints are rejected a second time by the FBI, notification is forwarded to ChildLine by the FBI. ChildLine will then conduct a name based check based on the demographic information on the initial

application. Results of the FBI name based record check are also forwarded by the FBI to ChildLine for interpretation. The result record will be printed on standard 8.5" X 11" paper with the Commonwealth Seal imbedded on the paper. **This document constitutes an official Record.** If an applicant presents their Federal Criminal History Record and the Commonwealth Seal is not embedded on the paper, it should be considered as invalid and not an official Record. If the applicant does not receive the Criminal History Record from DPW within three weeks after being fingerprinted, they should call (717) 783-6211.

FBI criminal record checks are valid for one year following verification.

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