

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 764 Session of 2021

INTRODUCED BY B. MILLER, GREINER, ZIMMERMAN, RYAN, GLEIM, DRISCOLL, KEEFER, RADER, R. MACKENZIE, STURLA, D. WILLIAMS, MENTZER, THOMAS AND KAUFFMAN, MARCH 3, 2021

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 4, 2021

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for employees having contact with children and
4 adoptive and foster parents.

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

7 Section 1. Section 6344(b.1) and (m) of Title 23 of the
8 Pennsylvania Consolidated Statutes are amended and the section
9 is amended by adding a subsection to read:

10 § 6344. Employees having contact with children; adoptive and
11 foster parents.

12 \* \* \*

13 (b.1) Required documentation to be maintained and
14 produced.--The employer, administrator, supervisor or other
15 person responsible for employment decisions or acceptance of the
16 individual to serve in any capacity identified in subsection (a)
17 (1), (2), (3), (4), (5)(i) or (6), (a.1) or (a.2) shall maintain
18 a copy of the required information and require the individual to

1 submit the required documents prior to employment or acceptance  
2 to serve in any such capacity or as required in section 6344.4,  
3 except as allowed under subsection [(m)] (m.1).

4 \* \* \*

5 [(m) Provisional employees for limited periods.--Employers,  
6 administrators, supervisors or other persons responsible for  
7 employment decisions may not employ applicants on a provisional  
8 basis, except that the department is authorized to grant a  
9 waiver of this provision upon request from a child day-care  
10 center, group day-care home or family child-care home. If a  
11 child day-care center, group day-care home or family child-care  
12 home is granted a waiver, an applicant may be employed on a  
13 provisional basis for a single period not to exceed 45 days, if  
14 all of the following conditions are met:

15 (1) The applicant has applied for the information  
16 required under subsection (b) and the applicant provides a  
17 copy of the appropriate completed request forms to the  
18 employer, administrator, supervisor or other person  
19 responsible for employment decisions.

20 (2) The employer, administrator, supervisor or other  
21 person responsible for employment decisions has no knowledge  
22 of information pertaining to the applicant which would  
23 disqualify him from employment pursuant to subsection (c).

24 (3) The applicant swears or affirms in writing that he  
25 is not disqualified from employment pursuant to subsection  
26 (c) or has not been convicted of an offense similar in nature  
27 to those crimes listed in subsection (c) under the laws or  
28 former laws of the United States or one of its territories or  
29 possessions, another state, the District of Columbia, the  
30 Commonwealth of Puerto Rico or a foreign nation, or under a

1 former law of this Commonwealth.

2 (3.1) A child day-care center, group day-care home or  
3 family child-care home received the result of the report of  
4 the criminal history record information under subsection (b)  
5 (1) or (3).

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

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

17 (m.1) Conditions for provisional employees.--

18 (1) An employer, administrator, supervisor or other  
19 person responsible for employment decisions may employ an  
20 applicant on a provisional basis for a single period not to  
21 exceed 45 days if the following conditions are met:

22 (i) The applicant has applied for the information  
23 required under subsection (b) and provided a copy of the  
24 appropriate completed request forms to the employer,  
25 administrator, supervisor or other person responsible for  
26 employment decisions.

27 (ii) The employer, administrator, supervisor or  
28 other person responsible for employment decisions has no  
29 knowledge of information that would disqualify the  
30 applicant from employment under subsection (c).

1           (iii) The applicant swears or affirms in writing  
2           that the applicant is not disqualified from employment  
3           under subsection (c) and has not been convicted of an  
4           offense similar in nature to those crimes listed in  
5           subsection (c) under the laws or former laws of this  
6           Commonwealth or any other jurisdiction.

7           (iv) The employer, administrator, supervisor or  
8           other person responsible for employment decisions has  
9           received the result of the report of the criminal history  
10           record information under subsection (b) (1) or (3).

11           (2) An employee hired on a provisional basis under this  
12           subsection must work in the immediate vicinity of a permanent  
13           employee and shall not be permitted to MAY NOT be alone with <--  
14           children.

15           (3) If the information obtained in accordance with  
16           subsection (b) reveals that the applicant is disqualified  
17           from employment pursuant to subsection (c), the applicant  
18           shall be dismissed immediately.

19           (4) This subsection does not apply to a child-care  
20           institution within the meaning of 42 U.S.C. § 672 (relating  
21           to foster care maintenance payments program) or facility that  
22           serves children and is licensed by the Department of Human  
23           Services, other than a child day-care center, group day-care  
24           home or family child-care home.

25           \* \* \*

26           Section 2. This act shall take effect January 1, 2022.