

DOMESTIC RELATIONS CODE (23 PA.C.S.) - INFORMATION RELATING TO
PROSPECTIVE CHILD-CARE PERSONNEL

Act of Nov. 29, 2004, P.L. 1291, No. 160

Session of 2004

No. 2004-160

Cl. 23

HB 2308

AN ACT

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 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes 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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"Private agency." A children and youth social service agency subject to the requirements of 55 Pa. Code Ch. 3680 (relating to administration and operation of a children and youth social service agency).

* * *

"Resource family." A family which provides temporary foster or kinship care for children who need out-of-home placement and may eventually provide permanency for those children, including an adoptive family.

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Section 2. Section 6344(d) and (g) of Title 23 are amended and the section is amended by adding subsections to read:
§ 6344. Information relating to prospective child-care personnel.

* * *

(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) for review in accordance with this section.

(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) for review by the foster family care agency in accordance with this section. **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) 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) 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.

(6) In cases where foster parents knowingly fail to submit the material information required in paragraphs (3), (4) and (5) such that it would disqualify them as foster parents, the child shall immediately be removed from the home without a hearing.

(7) An approved foster parent shall not be considered an employee for any purpose, including, but not limited to, liability, unemployment compensation, workers' compensation or other employee benefits provided by the county agency.

(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 years.

(ii) Criminal history background clearance generated by the process outlined in this section.

(iii) Child abuse clearance 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 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.1) Establishment of a resource family registry.--

(1) The department shall establish a registry of resource family applicants.

(2) The foster family care agency or adoption agency shall register all resource family applicants on the resource family registry in accordance with subsection (d.2).

(3) The foster family care agency or adoption agency shall register all resource families that are approved on the effective date of this subsection within six months of the effective date of this subsection.

(4) Any resource family that is voluntarily registered on the foster parent registry shall be maintained on the resource family registry mandated under this section.

(d.2) Information in the resource family registry.--

(1) The resource family registry shall include, but not be limited to, the following:

(i) The name, Social Security number, date of birth, sex, marital status, race and ethnicity of the applicants.

(ii) The date or dates of the resource family application.

(iii) The current and previous home addresses of the applicants.

(iv) The county of residence of the applicants.

(v) The name, date of birth, Social Security number and relationship of all household members.

(vi) The name, address and telephone number of all current and previous foster family care agency or

adoption agency affiliations.

(vii) The foster family care agency or adoption agency disposition related to the approval or disapproval of the applicants and the date and basis for the disposition.

(viii) The type of care the resource family will provide.

(ix) The number of children that may be placed in the resource family home.

(x) The age, race, gender and level of special needs of children that may be placed in the resource family home.

(xi) The ability of the resource family to provide care for sibling groups.

(xii) The date and reason for any closure of the resource family home.

(xiii) The appeal activity initiated by a resource family applicant or an approved resource family and the basis for the appeal. This subparagraph shall not be construed to limit legitimate appeals.

(xiv) The status and disposition of all appeal-related activities. This subparagraph shall not be construed to limit legitimate appeals.

(2) The information maintained in the resource family registry may be released to the following individuals when the department has positively identified the individual requesting the information and the department, except in the case of subparagraphs (iii) and (iv), has inquired into whether and if it is satisfied that the individual has a legitimate need within the scope of the individual's official duties to obtain the information:

(i) An authorized official of a county or private agency, a Federal agency or an agency of another state who performs resource family approvals or the department in the course of the official's duties.

(ii) A guardian ad litem or court-designated advocate for a child. The information is limited to the information related to the resource family with whom the child resides.

(iii) A court of competent jurisdiction, including a district justice, a judge of the Municipal Court of Philadelphia or a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under Chapter 63 (relating to child protective services).

(iv) A court of competent jurisdiction in connection with any matter involving custody of a child. The department shall provide to the court any files that the court considers relevant.

(v) The Attorney General.

(vi) Federal auditors, if required for Federal financial participation in funding of agencies, except that Federal auditors may not remove identifiable information or copies thereof from the department or county or private agencies.

(vii) Law enforcement agents of any jurisdiction, as long as the information is relevant in the course of

investigating crimes involving the resource family.

(viii) Appropriate officials of a private agency or another county or state regarding a resource family that has applied to become a resource family for that agency, county or state.

(3) At any time and upon written request, a resource family may receive a copy of all information pertaining to that resource family contained in the resource family registry.

* * *

(g) Regulations.--The department shall promulgate the regulations necessary to carry out this section. These regulations shall:

(1) Set forth criteria for unsuitability for employment in a child-care service in relation to criminal history record information which may include criminal history record information in addition to that set forth above. The criteria shall be reasonably related to the prevention of child abuse.

(2) Set forth sanctions for administrators who willfully hire applicants in violation of this section or in violation of the regulations promulgated under this section.

[(3) Provide for the confidentiality of information obtained pursuant to subsection (b).]

* * *

(n) Confidentiality.--The information provided and compiled under this section, including, but not limited to, the names, addresses and telephone numbers of applicants and foster and adoptive parents, shall be confidential and shall not be subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law. This information shall not be released except as permitted by the department through regulation.

Section 3. This act shall take effect in 60 days.

APPROVED--The 29th day of November, A. D. 2004.

EDWARD G. RENDELL