

INFORMATION BULLETIN ONLY – Updated July 30, 2015

Effective December 31, 2014, Pennsylvania amended the state's Child Protective Services Law and declared every "Emergency Medical Services provider certified by the Department of Health," all individuals who "accept responsibility for a child," and all others who may have "direct contact with children" to be mandatory reporters of suspected child abuse. 23 Pa.C.S. § 6311. Generally, speaking FIRE and EMS providers do not need clearances regardless of whether they are paid or volunteer. The amendments to the Child Protective Services Law require all prospective and current adults working in a paid or unpaid capacity "who have direct contact with children or who are responsible for the welfare of a child" (under 18 years of age) to obtain both criminal background check and child abuse clearances once every 5 years. 23 Pa.C.S. § 6344.4(1)(i). "Direct contact with Children" is defined in the Child Protective Services Law as "the care, supervision, guidance or control of children AND routine interaction with children". 23 Pa.C.S. § 6303. This is the standard that will apply to determining whether an adult volunteer must get the background checks.

These background checks are required for adults and are conducted to determine if a volunteer or employee has been convicted of any serious felonies or sex crimes, or has been identified as a perpetrator in a substantiated case of child abuse. 23 Pa.C.S. § 6344(c)(2). Also, any convictions of a drug offense within the past five years will also disqualify an individual from serving as a volunteer who works with children. 23 Pa.C.S. § 6344(c)(3).

New volunteers who have contact with children:

- A. who have resided in the Commonwealth continuously for at least the past 10 years will be required to obtain a Pennsylvania State Police criminal background check clearance (criminal history), as well as a Child Abuse History Clearance from the Department of Human Services.
- B. who have resided in the Commonwealth for less than 10 years will be required to obtain a Pennsylvania State Police criminal background check clearance (criminal history), a Child Abuse History Clearance from the Department of Human Services, and an FBI criminal background check clearance, which includes fingerprinting .

Any employee with current clearances issued prior to July 1, 2015, must renew within 5 years from the date of their oldest certification or, if current clearances are older than 5 years, by December 31, 2015.

Existing volunteers will have until July 1, 2016 to produce the required clearances for the organizations they volunteer. The volunteers and employees must produce originals of the clearances to the agencies for which they work or volunteer and the agency must make and retain a copy of these clearances. Once the clearances are obtained, they will need to be renewed (i.e., new, updated clearances will need to be obtained and given to the agency) every five years. Any **new** volunteer or employee must have the clearances before beginning volunteer or paid service.

Any person who has obtained the required clearances 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 (within five year timeframe). 23 Pa.C.S. § 6344.3(f)(1). Any employee who begins employment with a

new agency, institution, organization or other entity that is responsible for the care, supervision, guidance or control and routine interaction with children shall be required to obtain a new certification of compliance. 23 Pa.C.S. § 6344.3(f)(2). Volunteer clearances cannot be used for employment.

The following questions are provided to assist emergency responders to clarify application of the law as it relates to "direct contact with children".

1. As a member of a volunteer or career organization are you responsible for the supervision, guidance or control of junior members, children AND have routine daily interaction with children?
 - a. Determining whether a volunteer is responsible for the welfare of a child means that the volunteer is acting in lieu of or on behalf of a parent.
 - b. Do you have direct contact with children and are you responsible for the safety of that child as your primary consideration?
 - c. Do you have direct contact (routine interaction, that is regular, ongoing contact) that is integral to your volunteer responsibilities?

If you answered yes to any of the items above, you must obtain the appropriate clearances.

All fire and emergency medical service organizations should establish a written policy to obtain the required clearances that explicitly identifies personnel responsible for "direct contact with children." It is recommended that every organization consult with their legal counsel, municipality, and insurer when developing such policies.

Effective July 25, 2015, the Child Abuse clearances and PSP criminal background check fees will be waived for volunteers working with children. All clearances can be applied for electronically. To override the fee, select volunteering when applying online. Paper applications can be received without payment if the reason is for volunteering. The FBI clearance requires fingerprint submission.

- a. The PSP Criminal Record Check and the Pennsylvania Child Abuse History Clearance fees are waived for volunteers and reduced to \$8 each for employees.
- b. The FBI Criminal Background Check costs \$25.75 through the Department of Human Services.

Your organization should determine who pays for the cost of the required clearances. Some agencies may choose to pay for clearances for their staff members or have the staff member pay the costs.

If the organization responsible for employment decisions or the administrator of the service has:

- a reasonable belief that an employee or volunteer was arrested or convicted for an offense that would constitute grounds for denying employment or participation in the service
- was named as perpetrator in a report
- was arrested for an offence and provided notice as required under this section

Then, the administrator will immediately require the employee or volunteer to submit current information for a background investigation. The cost of the investigation shall be borne by the employing service.

If a volunteer or paid staff member is arrested for or convicted of an offense that would constitute grounds for denying participation, the volunteer or paid staff member must provide written notice no later than 72 hours after the arrest, conviction or notification that the person has been listed as a perpetrator in the statewide database. A volunteer who willfully fails to disclose information as required above commits a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of a volunteer or paid position.

Copies of all clearances shall be maintained by the agency, are confidential and may not be released to other individuals. For more information, reference the Child Protective Services Law Chapter 63 at: <http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/23/00.063..HTM> or go to the Department of Human Services website at: www.dhs.state.pa.us or www.keepkidssafe.pa.gov.

**CHILD PROTECTIVE SERVICES LAW AMENDMENTS
FOR EMS AGENCIES AND EMS PROVIDERS
AUGUST 2015**

In April 2015, the Bureau of Emergency Medical Services (Bureau) of the Department of Health issued two sets of FAQ documents relating to amendments enacted under the Child Protective Services Law (CPSL). On July 1, 2015, Act 15 was signed into law and changed some of the information provided in those two FAQ documents, particularly as they relate to the requirements for background checks for EMS providers. This document replaces the two documents issued in April 2015. Please note that EMS providers are still mandatory reporters and nothing has changed relative to an EMS provider's responsibility to report suspected cases of child abuse.

1. Are EMS providers required to obtain a background check?

Generally, speaking EMS providers do not need clearances regardless of whether they are paid or a volunteer¹.

2. Are there situations where an EMS provider is required to have a background check?

Yes. As an example, if the EMS provider is part of a junior EMS program or other type of "program, activity or service" involving children, then those individuals who are either responsible for the child's welfare or have direct contact or direct volunteer contact with children would need clearances.

Junior EMS programs would be considered a program, activity or service, which includes: youth camp or program, recreational camp or program, sports or athletic program, community or social outreach program, enrichment or educational program, troop, club or similar organization.

For employees, direct contact is care, supervision, guidance or control of children OR routine interaction with children.

For volunteers, direct volunteer contact is care, supervision, guidance or control of children AND routine interaction with children.

3. What is the definition of "person responsible for the child's welfare" under Act 15?

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.

4. What is the definition of "program, activity or service" under Act 15?

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) A community or social outreach program.
- (5) An enrichment or educational program.
- (6) A troop, club or similar organization.

5. How much do the background checks cost?

As of July 25, 2015, the costs are as follows for employees, though other fees may apply:

1. Pennsylvania Child Abuse History Clearance - \$8.00
2. Pennsylvania State Police Criminal Record Check - \$8.00
3. Federal Bureau of Investigation Criminal Background Check through the Department of Human Services - \$25.75

As of July 25, 2015, the costs are as follows for volunteers, though other fees may apply:

1. Pennsylvania Child Abuse History Clearance - \$0.00
2. Pennsylvania State Police Criminal Record Check - \$0.00
3. Federal Bureau of Investigation Criminal Background Check through the Department of Human Services - \$25.75

6. What is the renewal requirement for background checks?

Beginning July 1, 2015 for employees, and August 25, 2015 for volunteers, certifications must be obtained every 60 months.

Any employee with current certification issued prior to July 1, 2015, must renew their certifications within 60 months from the date of their oldest certification or, if their current certification is older than 60 months, by December 31, 2015.

If an individual elects to renew all certifications at the same time, the date of the oldest certification, rather than the most recent, is the date to be used for the renewal date.

7. What should an EMS provider do once he or she obtains the required background checks?

The EMS provider must submit those documents to each EMS agency that he or she works for and keep copies for his or her own records.

8. What is the EMS agency's responsibility relating to background checks?

An EMS agency must ensure that its employees, including volunteers, get the required background checks under the CPSL and that the EMS agency maintains proper documentation that its employees, including volunteers, have the requisite background checks at all times. An employer that fails to do so commits a misdemeanor of the third degree.

9. Can an EMS provider use a child abuse history certification or PSP criminal history he or she obtained for volunteer activities for other volunteer activities?

Yes. Any person who obtained their certifications within the previous 60 months may serve in a volunteer capacity for any program, activity or service.

10. Can an EMS provider use a child abuse history certification or PSP criminal history certification he or she obtained for volunteer activities for employment purposes?

No. Child abuse history certifications and PSP criminal history certifications obtained for volunteer purposes can only be used for other volunteer activities. Child abuse history certifications obtained for volunteer purposes will indicate that the certification is to be used for volunteer purposes only.

11. Can an EMS provider use a child abuse history certification or PSP criminal history he or she obtained for employment purposes for volunteer purposes?

Yes. If the EMS provider obtained a certification for employment purposes within the previous 60 months he or she may use the certification to serve in a volunteer capacity for any program, activity, or service.

12. What is the Bureau of EMS' role regarding CPSL compliance?

While the Department of Health does not administer the CPSL, the Bureau of EMS is the licensing and certification agency for EMS agencies and EMS providers. The Bureau of EMS will review any violations of the CPSL and other laws and take appropriate action as authorized under the EMS System Act and Department regulations. The Bureau of EMS will begin to monitor compliance with CPSL requirements as part of the licensure process and assist EMS agencies, where feasible, with meeting the requirements of the CPSL.

13. Where can I get a copy of Act 15?

<http://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2015&sind=0&body=H&type=B&bn=1276>

14. I have more questions. To whom should I direct them?

- Legal questions should be directed to the EMS agency's attorney. The Bureau of EMS cannot answer questions or provide legal advice to EMS agencies or EMS providers regarding their obligations under the CPSL, as this law is administered by DHS. This FAQ page is for informational purposes only and does not constitute legal advice by the Department of Health.
- Questions related to child protection can be sent to the Department of Human Services' Office of Children, Youth and Families at RA-PWCPSLQuestions@pa.gov.
- For questions regarding Child Abuse Referrals, contact ChildLine at 1-800-932-0313.
- For questions regarding your Pennsylvania Child Abuse History Clearance Application, contact ChildLine at 1-877-371-5422.
- For assistance with your ChildLine account log-in or other technical issues, contact 1-877-343-0494.
- It is also recommended that any interested or effected person review the Department of Human Services' website relating to the CPSL at <http://keepkidssafe.pa.gov/index.htm>.