

# PA ACT 153'S IMPACT ON HEALTHCARE EMPLOYEES & VOLUNTEERS

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Service : [Compliance Services](#)

Act 153 of 2014 and Act 15 of 2015 amended Pennsylvania's Child Protective Services Law (CPSL) to require individuals that have contact with children to obtain state required certifications and clearances every 60 months.

Specifically, the law requires employees and volunteers responsible for the welfare of a child or having contact with children to obtain the required clearances prior to employment and then again every 60 months.

Aside from the new periodic background check requirement, the most notable change to the law is the requirement that volunteers also obtain the required clearances. While the former Pennsylvania law had no such requirement for volunteers, under the new law these individuals must now submit the required clearances prior to hire and then again every 60 months.

## Applicability of the Law

### 1. Employees Having Contact with Children

Section 6344 of the Act provides that the clearance requirements apply to: "An individual 14 years of age or older applying for a paid position as an employee responsible for the welfare of a child or having direct contact with children." Section 6303 defines "direct contact with children" as the care,

supervision, guidance or control of children or routine interaction with children. A "child" is defined as an individual younger than 18 years of age.

It is up to each employer to conduct an individualized assessment of each employee to determine whether the employee falls within this definition of "direct contact with children" and is therefore subject to the clearance requirements.

With respect to the "direct contact with children" analysis, the Pennsylvania Department of Education (the "Department") has issued a FAQs document that provides two areas for employers to consider when making this determination. The first is whether the employee has direct contact with children because he or she provides care, supervision, guidance or control of children or has routine interaction with children. Since these terms are not defined in the statute, the Department suggests that the common meaning of these terms be used with child safety serving as the paramount consideration.

If it is determined that the employee does not provide care, supervision, guidance or control of children, employers should then move on to the second area for consideration—whether the employee has routine interaction with children. With regard to routine interaction, consideration should be given to what the employee's role is within the agency, and based on that role, a determination should be made whether his or her contact with children is regular, ongoing contact that is integral to his or her day-to-day job responsibilities.

If a determination is made that the employee does not have direct contact with children, clearances are not required.

Please be sure to consult your legal counsel when making these determinations. You should also consult with your insurer regarding possible insurance coverage implications.

# Clearance Requirements

## 1. Employees Having Contact with Children

All employees having contact with children must obtain the following clearances:

- (1) Report of criminal history from the Pennsylvania State Police (State Police);
- (2) Child Abuse History Clearance from the Department of Human Services (Child Abuse); and
- (3) Fingerprint-based federal criminal history submitted through the Pennsylvania State Police or its authorized agent (FBI).

Beginning Dec. 31, 2014, clearances must be submitted prior to the commencement of employment or service. Clearances must then be obtained every 60 months. Any employee with a current certification issued prior to Dec. 31, 2014 shall be required to obtain the required certifications within 60 months from the date of the person's oldest certification or, if the current certification is older than 60 months, by Dec. 31, 2015. An employee without a certification or who was previously not required to have a certification must obtain the required certifications no later than Dec. 31, 2015.