

PENNSYLVANIA BACKGROUND CLEARANCE LAW FOR EMPLOYEES & VOLUNTEERS
SUMMARY OF PA ACT 15 of 2015 (Amending Act 153 of 2014)
23 Pa.C.S. § 6344.2, et. seq.

Act 15 of 2015 (amending Act 153 of 2014) requires comprehensive criminal and child abuse background checks for employees and volunteers who have direct and routine contact with children. Section 6344.2 of the Act amends the Child Protective Services Law (“CPSL”) to expand the definition of persons who must submit to a detailed state background check to include any adult applying for an unpaid position who will be responsible for the welfare of a child or have direct and routine interaction with children. These legal requirements apply to all coaches, referees, managers and other persons working with children within Pennsylvania. This is a summary of the requirements of Act 15 and what our volunteers and employees must do to meet them.

Who does the Act Apply to? Act 15 applies to all employees, independent contractors and volunteers who engage in the care and supervision, guidance or control of children or have routine interaction with children. Section 6344.2 specifically applies to any “adult applying for an unpaid position as a volunteer responsible for the welfare of a child or having direct contact with children”. Act 15 also applies to any person who is compensated for his work, including, independent contractors (“Employees”). This includes all coaches, managers, locker room monitors, referees and volunteers who work with children on our hockey teams (“Volunteers”). The Act also applies to administrators who make decisions about who will serve in those positions, including, “employers, administrators, supervisors or other persons responsible for selection of volunteers” who are required to ensure that an applicant submits to all requirements set forth below. (Section 6344(b))

What do our Volunteers/Employees have to do to comply with the Law? Act 15 requires all Volunteers and Employees to obtain three (3) background clearances; (1) Child Abuse Certification; (2) Criminal History Record Certification and (3) Federal Criminal History (FBI) Certifications (subject to certain exceptions explained below).

How does a Volunteer/Employee obtain the Certifications? The Volunteer or Employee must submit an application for clearance certifications under Section 6344(b) either on-line or by written application to the following government agencies: (1) the Pa Dept. of Human Services, (2) the Pennsylvania State Police, and the (3) Federal Bureau of Investigation. Descriptions, instructions and online links for all certifications are on the Pa. “Keep Kids Safe” website:
<http://www.dhs.pa.gov/publications/findaform/childabusehistoryclearanceforms/index.htm>

- **Child Abuse Clearance (Pa. Dept of Human Services):**
Requests for Child Abuse certifications may be made online <https://www.compass.state.pa.us/cwis/public/home>
Paper submission request form ([CY113 Form](#)) may be mailed to the ChildLine and Abuse Registry, Pennsylvania Department of Human Services, P.O. Box 8170, Harrisburg, PA 17105-8170.
- **Criminal History Record Clearance (Pennsylvania State Police Reports):**
Pennsylvania state criminal history reports may be secured online <https://epatch.state.pa.us/Home.jsp> or by [accessing Form SP4-164](#) on the state police website and mailing the request form to Pennsylvania State Police Central Repository-164, 1800 Elmerton Avenue, Harrisburg, PA 17110-9758. Questions about State Police checks may be directed to 1-888-QUERYPA (1-888-783-7972).
- **Federal Criminal History Clearance (FBI Reports):**
FBI certifications are also available online <https://www.identogo.com/locations/pennsylvania> Applicants must submit a full set of fingerprints to the Pa. State Police or its authorized agent for submission to the FBI to verify the identity of the applicant.

Exemptions from FBI Clearance Requirements: Volunteers: Section 6344.2(B.1) of the Act permits an exception to the federal background check for Volunteers if prior to taking the position, the Volunteer certifies that his position is unpaid and that he has been a resident of Pennsylvania “during the entirety of the previous ten-year period” and “swears or affirms in writing” that he is not disqualified due to any child abuse offense and has not been convicted of any crime, in another state or foreign nation, similar to the convictions disqualifying a person in Pennsylvania. (Form Affidavit attached) Minor Employees (age 14-17) may also be exempt from fingerprinting by completing a minor employee affidavit. Sec 6344(8)(a.2)

When must a volunteer/Employee obtain the clearance? How often must it be renewed? Prospective Volunteers/Employees will be required to obtain background checks by PRIOR to contact with children with updated checks required every Five (5) years.

What results disqualify a Volunteer/Employee? An applicant will be disqualified from serving if:

1. The applicant is “named in the statewide database maintained by the Department of Human Services as the perpetrator of a founded child abuse report committed within the five-year period immediately preceding verification”.
2. The applicant has been convicted of “one or more of the following offenses under Title 18 (relating to crimes and offenses) or an equivalent crime under Federal law or the law of another state”:
 - Chapter 25 (relating to criminal homicide).
 - Section 2702 (relating to aggravated assault).
 - Section 2709.1 (relating to stalking).
 - Section 2901 (relating to kidnapping).
 - Section 2902 (relating to unlawful restraint).
 - Section 3121 (relating to rape).
 - Section 3122.1 (relating to statutory sexual assault).
 - Section 3123 (relating to involuntary deviate sexual intercourse).
 - Section 3124.1 (relating to sexual assault).
 - Section 3125 (relating to aggravated indecent assault).
 - Section 3126 (relating to indecent assault).
 - Section 3127 (relating to indecent exposure).
 - Section 4302 (relating to incest).
 - Section 4303 (relating to concealing death of child).
 - Section 4304 (relating to endangering welfare of children).
 - Section 4305 (relating to dealing in infant children).
 - A felony offense under section 5902(b) (relating to prostitution and related offenses).
 - Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).
 - Section 6301 (relating to corruption of minors).
 - Section 6312 (relating to sexual abuse of children).
 - The attempt, solicitation or conspiracy to commit any of the offenses set forth in this paragraph.3.
 - The applicant has been convicted of a felony offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five - year period immediately preceding verification.

What are the duties of a Volunteer/Employee who is charged with a new disqualifying offense? If an employee or volunteer subject to 6344.2 (relating to volunteers having contact with children) is arrested for or convicted of an offense that would constitute grounds for denying employment or participation in a program, activity or service under the Act, or is named as a perpetrator in a founded or indicated report, the employee or volunteer shall provide the administrator or designee with written notice not later than 72 hours after the arrest, conviction or notification that the person has been listed as a perpetrator in the Statewide database.

What are the Duties of an Administrator who selects an Employee or Volunteer? The person responsible for employment decisions or the administrator of a program, activity or service who accepts the volunteer’s services must: (1) obtain the original clearances prior to the individual beginning employment or service; (2) maintain copies of the required information; and (3) immediately require the employee or volunteer to submit current information if it is reasonably suspected that the employee or volunteer has committed an offense during employment or service. The cost of the information shall be borne by the employing entity or program, activity or service.

What are the penalties for a Volunteer/Employee or Administrator who willfully fails to comply with the Act? An employee or volunteer who willfully fails to disclose information required by subsection the Act) commits a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of employment or volunteer position.

This Summary of Act 15 does not address all provisions of the Law and is not intended as an exhaustive discussion of the full Act. Instead, it is a brief discussion of certain provisions of the Act, intended as a reference material for Coaches and other volunteers working for ice hockey programs operated within the EPIHA and Atlantic District of USA Hockey. Any questions or comments concerning this Summary should be directed to its author, David A. Baun, Esquire at dbaun@baunlittlaw.com. Rev.9.2.19.