



Children's Justice & Advocacy Report

To promote community responsibility so every Pennsylvania child is protected from child abuse, including sexual abuse.

Effort “to clarify” who needs background checks leads to “unintended consequence” *Is the culprit a single comma versus any bad intention or actors?*

February 4th – Last week, ABC27 News in Central Pennsylvania ran a news segment ([Does child-abuse law loophole exempt medical profession from background checks?](#)) identifying an “unintended consequence” resulting from the child protection laws enacted over the last few years.¹

The “consequence” was equated with “making kids less safe” and having “created a huge gap in the fight against child abuse.” That “gap” was discovered after the Pennsylvania Department of Human Services (PA DHS) provided guidance to the Pennsylvania Medical Society (PMA) in December 2015 “as to when a child abuse clearance is required for physicians and other members of the health care team.”² DHS’ responded that “a physician or other person employed by a medical practice or a hospital to deliver medical care or to provide administrative services related to the delivery of medical care would not need a child abuse clearance.”

ABC27 followed its initial report with a “Fact Check” about background checks and medical personnel ([ABC27 Fact Checker: Background checks not required for medical personnel](#)).³ In this segment, it was reported that they “found the old requirements specifically require doctors and medical personnel to have clearances.” The reporter indicated that the DHS interpretation that physicians do not need background checks has left many “shocked” and created “confusion within Pennsylvania’s medical community.”

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2006 amendment of CPSL specifically requires background checks of doctors

In 2006, the Pennsylvania General Assembly put forth some child protection reforms in response to the clergy sexual abuse scandal involving the Archdiocese of Philadelphia.

¹ <http://abc27.com/2016/01/27/does-child-abuse-law-loophole-exempt-medical-profession-from-background-checks/>

² State Clarifies When Physicians and Other Health Care Team Members Need a Child Abuse Clearance retrieved at <http://www.pamedsoc.org/Right-Side-Nav/Latest-News/Child-abuse-clearances-clarification.html#sthash.XlasN9AG.dpuf>

³ <http://abc27.com/2016/01/29/abc27-fact-checker-background-checks-not-required-for-medical-personnel/>

Policymakers reworked the criminal offense of endangering the welfare of children (EWOC), required reporting of suspected child abuse regardless who the alleged perpetrator was, and extended the criminal statute of limitation (SOL) in child sexual cases until the victim reached the age of 50.

A number of legislative bills were introduced and eventually Senate Bill 1054 amending Title 42

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2012 Task Force on Child Protection recommendation deletes direct reference to doctors, clergy, and other occupations

Fast forward to the report and recommendations of the Task Force on Child Protection in 2012.

In this report, the Task Force outlined their recommendations writing, “Section 6344.2 expands the provision governing persons having contact with children to include any person applying for a paid or unpaid position as a person responsible for the welfare of a child. Persons in these circumstances who meet the definition of the term “perpetrator” must obtain background clearances before working or volunteering with children, and certain information found in these background checks can result in permanent or temporary bans from employment or volunteer activities with children.”⁴

Later in the report, the Task Force outlined its specific proposed legislative changes (note the language in

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The General Assembly follows the Task Force’s lead

House Bill 435, introduced in 2013, followed the recommendation (and specific legislative language) outlined by the Task Force.⁵

House Bill 435 amended the CPSL specifically § 6344.2 eliminating the additive language of which specific professionals/occupations were subject to background checks (e.g., clergy, doctors, librarians, social service workers).

The bill was amended several times and by the time it was sent to the Governor for his signature in 2014, including that § 6344.2 was now amended becoming specific to “volunteers having contact with children.”

Meanwhile § 6344 had changed from the “Information relating to prospective child care employees” to “employees having contact with children; adoptive and foster parents.” In addition to altering the

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The “unintended consequence” in 2015 eliminating background checks for doctors and other professionals

⁴ <http://www.childprotection.state.pa.us/Resources/press/2012-11-27%20Child%20Protection%20Report%20FINAL.pdf>

⁵ <http://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2013&slnd=0&body=H&type=B&bn=435>

House Bill 1276 was introduced in 2015 intended “to clarify and make more explicit provisions in the statute enacted last session which requires employees and adult volunteers who work with children to obtain criminal background check clearances and child abuse clearances.”⁶

As introduced, the bill sought to change that #5 under § 6344 (employees having contact with children; adoptive and foster parents) so that the employee’s subject to background checks either had to be a

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⁶ <http://www.legis.state.pa.us//cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20150&cosponId=18387>