



## **New PA Clearances for Those Who Work With Children**

*October 16, 2014: Fourth in a series*

In our September 15 BIG CHANGES FOR CHURCHES article, we briefly summarized some of the major changes to PA's Child Abuse reporting laws impacting churches, as well as many other organizations, involved in caring for children. More than 20 pieces of legislation have been signed, with most of the changes stemming from recommendations of the 2012 Pennsylvania Task Force on Child Protection, formed in the wake of the Penn State Sandusky case. Most of the changes are effective 12/31/14.

In our September article, we noted that PA HB 435, which specifies the type of screening and clearances mandated reporters are required to get, was still pending and we did not know if it would be passed and signed into law during the brief legislative session prior to adjournment for the November elections. We summarized some of the bill's provisions as it stood at that point.

**On October 6, HB 435 came out of the Committee with many changes to those provisions, and subsequently passed the Senate with a vote of 50-0. It is now on Governor Corbett's desk to sign into law.**

**It is beyond the scope of this brief memo to describe in detail all that HB 435 involves, but we highlight a few of the most significant changes for churches related to clearances below.**

**In addition, we note that HB 435 includes new confidentiality protections for mandated reporters, a group that includes volunteers as well as church staff caring for children effective 12/31/14.**

The identity of a mandated reporter must now be protected by the church internally, as well as by the county/agency investigating. HB 435 directs law enforcement to treat all reporting sources as confidential informants. The only exception to the confidentiality provisions are for investigations into "false reports". False reports are different than "unfounded" reports; an unfounded report simply means the evidence in the investigation did not rise to the standard under the law. Reporters are NOT required to be certain about abuse in order to report nor should they investigate; the reporting "trigger" is reasonable basis to suspect OR a direct disclosure. A false report is one in which the reporter intentionally/knowingly tries to get someone in trouble by filing a suspected abuse report when the reporter knows it is not true.

### **Brief Summary of Clearance Requirements**

Church employees and volunteers that are responsible for caring for children in a regularly scheduled program, activity or service are required by PA Child Protective Services Law (CPSL) to obtain specific background checks, or "certifications", and repeat them **every 36 months**. (The previous version of

HB 435 used 24 months). The institution and staff member supervising each volunteer or employee are legally required to obtain these clearances, and are subject to prosecution for deliberately failing to do so.

**The following are the required clearances for certification:**

Child Abuse History Clearance Form (CY-113) (\$10) - Obtained from the Department of Human Services, i.e. DHS (Previously known as the Department of Public Welfare i.e. DPW)

Pennsylvania State Police Request for Criminal Record Check Form (SP4-164) (\$10)

FBI Fingerprint Record Checks:

- Employees must obtain the fingerprint record regardless of duration of residence in PA.
- Volunteers who have not lived in PA for 10 years are also required to get the FBI fingerprint records check. (\$28.75 – approximate)

HB 435 kept current law provisions, §6344(C), regarding what bars or disqualifies a person from being employed (or now volunteering) to work with children, and appointed a Committee to study additional provisions. The Bill added a 5 year ban for a felony drug conviction or if a person has been named as a perpetrator of a founded child abuse report.

**However, a current volunteer or prospective employee must affirm in writing that he or she is not disqualified from employment or service related to working with children {pursuant to §6344(C)}, or “has not been convicted of an offense similar in nature to those crimes listed in subsection (C) under the laws or former laws” of any other jurisdiction.**

This “affirmation” statement helps to fill the gap for employees hired on a provisional 90 day basis that have applied for clearances and are permitted to work with children pending their certification if certain conditions described in HB 435 are met. For volunteers, it helps to fill the “gap” for those not required to get FBI Fingerprint records because they have lived in PA for the past 10 years.

**Transition Period: Effective 12/31/14, all employee clearances, including FBI, must be obtained every 36 months, with a one year period or until 12/31/15 to bring all employees current. Volunteers are required to have current (less than 36 months old) background checks by 7/1/15.**



## **Samaritan SafeChurches:**

### **We have you covered!**

**If your church has gone through the Samaritan SafeChurch program and you are using our policy template, or if you have been trained by us as a Samaritan SafeChurch facilitator in the state of PA, we will be sending you a number of specific policy revisions and some more detailed information on HB 435 next week, so stay tuned!**

**If your church is NOT currently in our program** and you would like to be part of our next group (Cluster) of churches meeting in the Lancaster-Lebanon-York area you can join the Cluster starting in February 2015 but you must enroll quickly, as space is limited to 10 churches. <http://scclanc.org/clergy-congregation-care/safechurch/join-the-next-safechurch-cluster/>

You can also learn how to facilitate Safe Church in your own congregation or for a group of churches in your community or judicatory in our 3 day facilitator training program. These trainings must be sponsored and hosted by a community organization or a judicatory. <http://scclanc.org/clergy-congregation-care/safechurch/safe-church-facilitator-training/>

**PLEASE REMEMBER! Even the best policy and training does NOT create a “Safe Church” for children!** That is why Samaritan’s Safe Church program is not a “QUICK FIX” but is designed to shift the culture of a congregation over a one year period so that all adults become proactive about protecting children from sexual harm – not only in church but in the community.

In addition to providing best practice policies with mandated reporting, our program helps congregations develop the three core aspects of what it means to truly be a SafeChurch:

- 1) Integrate child sexual abuse prevention and response practices in congregations as a core theological commitment and community covenant
- 2) Educate and empower parents, children and other congregants to prevent sexual abuse in the broader context of a child’s “safe world” of school/scouts/sports, etc.
- 3) Lift up and empower adult survivors in congregations to become leaders in creating resources for their faith communities.

***Please join us!***

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