



More Legislative Changes for PA Churches in July 2015!

July 24, 2015

On July 1, 2015 Governor Tom Wolf signed HB 1276, aimed at clarifying some of the ambiguous language in the slew of more than 20 bills reforming PA's Child Protective Services law passed in 2014. We will highlight these changes in several articles over the next few months, so be sure to check back on our website to see the latest updates. – *Linda Crockett, Director of Education & Consultation/SafeChurch Developer*

How we got here: The “trigger” for the initial wave of massive changes was the Sandusky child sex abuse scandal, a case which broke in November 2011 and ultimately resulted in his conviction on 45 counts of sexual abuse in 2012.

As is the case with much legislation, some of the revisions were confusing and resulted in widely different interpretations of how to comply, especially for churches and youth serving organizations. Effective January 1, 2015, adult volunteers working with children became mandated reporters that had to function within PA's fairly complex framework of Child Protective Services Law (CPSL). At the same time church leaders were faced with the somewhat daunting task of administrative organizational compliance and oversight of volunteer background checks and compliance, while making substantial revision to child protection policies and, in some cases, ministry practices.

SafeChurch: House Bill 1276, while it did clarify some of the ambiguous language in prior legislation, also injected yet more changes into an environment where many people are already feeling overwhelmed. Our one year Samaritan **SafeChurch** program, which gives full policy support to congregations while also engaging them in the cultural shift needed to truly protect children from sexual, and other, forms of abuse, has been implemented in more than 45 congregations in and around our “home base” of Lancaster county; and we have trained about 100 **SafeChurch** facilitators in other parts of the nation to lead clusters of congregations in their communities through this unique process. To learn more, go to www.samaritansafechurch.org

Since our work is primarily with congregations, we will focus on changes that impact this constituency. Foster parents, schools, licensed day-care centers, health care providers and some other entities have additional obligations.

What we cover in this article:

- New key definitions
- Extended renewal periods for clearances, and new transition dates for volunteers
- Cost reductions for clearances, prior FBI fingerprint record checks, portability
- New volunteer related “swear or affirm” statements

Please see STAY TUNED at the end of this article for what we intend to cover next!

New Key Definitions

Clearances and background checks: Are now referred to as Certifications

Direct Contact with Children is defined as the “care, supervision, guidance or control of children, or routine interaction with children.”

Routine Interaction is defined as “regular and repeated contact that is integral to a person’s employment or volunteer responsibilities.” Although this has been our interpretation since the new laws were passed in 2014, some attorneys argued that the laws swept up even administrative staff and adult ministry workers who had only incidental contact or interaction with children. This clarification should put this to rest!

Extended renewal periods for clearances, and new transition dates for volunteers

The State-specified Certifications (previously called “clearances or background checks”) **now have a 60 month, rather than a 36 month, renewal period.** Certifications are now considered “current” if they were obtained within the last 60 months. Renewals must be done based on the date of the oldest certification of a volunteer or employee, and all new certifications must be in place prior to the expiration of the 60 month period.

The effective date on which all **new volunteers** (those who are not current volunteers working with children) **must have all required certifications current prior to working with children has been changed from 7/1/15 to 8/25/15.** For current volunteers (now defined as those serving prior to 8/25/15) certification must be current no later than 7/1/16. This is the same transition date we have used in our SafeChurch training for current volunteers; the only difference is the extension of the period defining current volunteer from 7/1/15 to 8/25/15. **However, we are glad to see this clarified, as we heard a number of “experts” insist that all volunteers had to be cleared as of January 1, 2015 – which only added to the anxiety of our faith communities!**

Cost reductions for clearances, prior FBI fingerprint record checks, portability

Cost Reductions: In an executive action on June 10 that caught some legislators by surprise, Governor Tom Wolf announced that **the processing fees for Child Abuse Clearances and PA Criminal Record Checks will be eliminated for volunteers working with children, and cut from \$10 each to \$8 each for employees, beginning July 25, 2015.** HB 1276 codified that action into law. Please note that PA has no jurisdiction over the FBI Fingerprint Record processing, which remains at about \$29.00.

FBI Fingerprint Record Checks: Volunteers who have not lived in PA for the past 10 years must still get FBI Fingerprint record checks; however, if the volunteer obtained such a check previously and can provide documentation of results, a new one is not required. In addition, the FBI Fingerprint record checks do not need to be repeated in 60 months for volunteers; rather, this is a one-time check. Employees must continue to get new FBI checks every 60 months.

Portability: Certifications obtained for employment may now be used to apply for, or hold, another employed position. Previously, new employment required new certifications.

As under prior law, certifications obtained for employment purposes may be used for volunteer positions. Certifications obtained for volunteer positions may NOT be used for employment purposes.

Also, the confounding language about the necessity of the employer or non-profit volunteer supervisor to “see the original documents” has been removed, since there are no longer embossed sealed “original” documents in these days of computer generated certifications. Under the new law, the supervisor may accept copies of the certifications. It is still critical the supervisor carefully review and check results against the list of Disqualifying Offenses under 23 PA.C.S.§6344(C), as a volunteer or employee is prohibited by law from serving if a record check reveals a disqualifier, and the church/organization/employer can be held liable for allowing such a person to serve. The list of offenses is located within Chapter 63 of the updated PA Child Protection Law. If you use a web search, be cautious as many websites take a long time to update with new laws.

New “Swear or Affirm” Statement for Volunteers

HB 1276 added yet another circumstance where the supervisor/administrator is required to obtain a “swear or affirm” statement from an employee or volunteer applying for or holding a position to work with children. This is in addition to the situations covered under the prior law. For those of you unfamiliar with the term, the Swear or Affirm statement is a document where the employee/volunteer gives assurance he or she is not disqualified from services under §6344(C). Under prior law, church administrators were only required to have these statements signed for volunteers living in PA for the past 10 years who by virtue of residency could bypass the FBI Fingerprint Record Check. HB 1276 requires that these statements also be obtained for all volunteers meeting the criteria for working with children, including those who need to get new FBI Fingerprint record checks or those who already have them. We will highlight an employee change in our next update.

- **Our SafeChurch policies include multiple appendix forms, including “swear or affirm” statements, and list the offenses that disqualify people from service under the law. We do not make forms or policies available outside of our *SafeChurch* program, as we are most interested in partnership with congregations that are willing to do the hard work required to become truly “safe” for children which goes far beyond complying with law and policy making.**
- **We do provide stand-alone mandated reporting workshops for congregations, youth serving organizations, judicatories and church insurance agencies that cover the requirements for mandated reporters and the requirements for institutional compliance/administration under the CPSL. Workshops are a minimum of 2.5 hours and offered on site at your church or organization.**

Stay Tuned!

Our next article will cover the following and will be posted in the RESOURCE section of our *SafeChurch* website. Visit us often at www.samaritansafechurch.org

- **Provisional Volunteer language deleted, new Non-Resident Volunteer language inserted**
- **Minor (age 14-17) employee requirements**
- **Exchange Visitors (J-1 visa holders)**
- **Information about our DVD update to include HB1276 revisions**
- **Information about the start date for our next Lancaster PA based SafeChurch Cluster**
- **How and where to get trained to facilitate SafeChurch in your community in PA or another state!**