

Diocese of Greensburg

September 2, 2015

“On June 30, 2015, both chambers of the Pennsylvania State General Assembly gave final approval to a bill that would make corrective and clarifying amendments to the background check provisions of the Child Protective Services Law (CPSL) that had been adopted late in 2014 and which had generated substantial public criticism as being too onerous, particularly for volunteers who had direct contact with children. Governor Wolf then signed the new bill into law as Act 2015-15 on July 1, 2015, to become effective immediately.”

The legislators who sponsored the revision of the CPSL stated that their work was the product of several months of collaboration between staff from the Pennsylvania House and Senate, the Pennsylvania Department of Human Services, the Pennsylvania State Police, the Pennsylvania Department of Education and the Governor’s Office. The objective of this collaborative effort was to “strike a better balance between protecting children and not making the requirements for volunteers so onerous that the result is losing both volunteers and consequently programs that are beneficial to children.”

Despite all of those efforts, the bill underwent substantial changes within each chamber of the legislature in a highly-condensed time period and still contains many provisions of uncertain breadth and application.

That said the Pennsylvania Catholic Conference (PCC) has created two ongoing statewide committees. The two committees are the Youth Protection Committee and the Victim’s Assistance Committee each of which is composed of representatives from each of the eight Dioceses across the Commonwealth. At recent independent meetings of each of these committees it was evident that most dioceses in Pennsylvania already have, or are developing, the provisions for the protection of children and vulnerable adults that we currently have in place in the Diocese of Greensburg. This includes the diocesan requirement that all volunteers obtain clearances immediately and that every church volunteer go through the clearance process. This is also the continued advice of PCC legal counsel.

Additionally it is not only a matter of a whether a church volunteer has interaction with children or not but even more importantly, we must keep our promise to the People of God as members of the Universal Church, the Diocese, and the parish that anyone who represents the Church in any capacity, whether volunteer or employee has gone through appropriate screening and is free of any abuse issues with minor children.

We are the Church where the Good Shepherd himself has said: "Let the little children come to me." All of our actions related to requiring clearances assures to the best of our ability that those children and anyone else who comes to us, for that matter, are coming to a safe environment.

If we see these requirements not as a burden on volunteers and employees but rather as making an effort to protect our children then I think we will have answered the question for ourselves, "Why do we have to do this?"

This is also the reason that we have asked volunteers in every parish to obtain these clearances. Given that the various ministries in different parishes have diverse expectations it seems only sensible that there are common expectations for the entire Diocese. This uniformity allows that priests, deacons, employees and volunteers have a similar understanding of what is required of them for Church service regardless of where they serve.

The Diocese is aware that these requirements have caused a few people to leave volunteer ministry or refuse to obtain clearances. As sad as that might be, we maintain that we have an obligation both on a moral level as well as a legal level to insure that all of our volunteers are free of any child abuse issues. The Diocese encourages you, our pastors and staff to continue to educate people on the reality of child abuse today. One good option might be to give staff and volunteers a second opportunity to view the Virtus video where child predators actually talk about seeking out opportunities to interact with children in the most unlikely places. Unfortunately the Church is one of those places. Choosing to not do the clearances while remaining in ministry is not an option. The Commonwealth of Pennsylvania has set dates for compliance but the Commonwealth has also indicated that every organization is free to set its requirements at whatever level it deems fit as long as it meets the state minimum expectations. This is what we have done in the Diocese of Greensburg.

The following is an explanation of the July 1, 2015 changes to the CPSL as they affect our Diocese, schools and parishes. If you have any specific questions concerning the application of the revised CPSL to your particular circumstances you are asked to consult with the Diocesan Director of Human Resources.

The following statutory changes to the December 2014 CPSL are those most pertinent to our Catholic parishes, schools and other entities within the Diocese of Greensburg:

For all Employees:

- The law as it stood prior to the enactment of this bill required virtually all employees and volunteers who serve in schools or in children’s programs or activities and who have “direct contact with children” to obtain background clearances. The key term “direct contact with children” was defined to mean: “The care, supervision, guidance or control of children **or** routine interaction with children.” That standard remains the same with respect to paid employees.

For Volunteers:

- The newly amended law adds a definition of “direct volunteer contact” and thereby creates a separate standard for the background check mandate as applied to volunteers. This new term is defined as: “The care, supervision, guidance or control of children **and** (instead of “**or**”) routine interaction with children.” The change is very subtle and will have to be applied to specific circumstances on a case-by-case basis. In addition, the bill also adds a new definition for “**routine interaction with children**” which would read: “Regular **and** repeated contact that is integral to a person’s employment or volunteer responsibilities.” That definition might add at least some clarity to the underlying definitions of “direct contact with children” and “direct volunteer contact.”

Please note that for the purposes of applying the July 1, 2015 changes to the CPSL for applicable Catholic entities within the Diocese of Greensburg our legal counsel still suggests that it is up to each diocese to interpret which positions have “The care, supervision, guidance or control of children **and** routine interaction with children.” These four points, (care, supervision, guidance or control of children) are not listed as cumulative but as independent interactions with children. So, for example, the decision as to whether an usher meets the criteria of having routine interaction and or care of children is still a judgment call at the diocesan level.

After a review of the changes to the law as related to clearances for employees and volunteers it is the position of the Diocese that we will maintain our policy at this time and all church volunteers listed in our original policy statements and accompanying charts will still be required to have clearances. This will remain the case until there is sufficient reason to suggest that we adopt a different position. Ultimately the protection of our children and vulnerable adults is our first priority and compels us to do everything within our power to assure their safety as they interact with any of our employees and volunteers.

The decision to maintain our current clearance requirements was also made in light of the fact that obtaining and maintaining the required clearances has become a much less burdensome requirement based on the following additional changes in the July 1, 2015 revision of the CPSL.

The new changes to the CPSL:

- *Make it easier to use the Affidavit in place of the FBI fingerprint clearances for adult volunteers.*
The CPSL that was adopted in December of 2014 required volunteers who have not resided within the Commonwealth of Pennsylvania continuously for the past 10 years to obtain an FBI records check and to renew it every 3 years until the 10-year residency threshold is reached. The new law now modifies this requirement to permit volunteers who are current residents of Pennsylvania (but who have not been residents for the entire previous 10-year period) to obtain the FBI check only once at any time since establishing residency in Pennsylvania. Thus a person who cannot use the Affidavit and needs the FBI clearance need only do this one time and not every three years.

- *Make it easier to use the Affidavit in place of the FBI fingerprint clearances for minor employees.*
Minors between the ages of 14 and 17 who are **employed** in a paid position in a school or in a children's program or activity and who either supervise or have direct contact with children will be subject to the State criminal records check and DHS child abuse records check, but will be exempt from the FBI check requirement if they have resided within Pennsylvania for the previous 10 years and the minor and her/his parent or legal guardian swears or affirms in writing that the minor is not ineligible for employment due to having perpetrated child abuse or having been convicted of a disqualifying crime that is enumerated in the CPSL. If the minor employee has not resided in Pennsylvania for the entire previous 10-year period, that minor would have to present an FBI clearance that was obtained at any time after becoming a Pennsylvania resident.

In other words, an employee who is a minor may use the Affidavit in lieu of the FBI clearance if they meet the residence eligibility requirements and her/his parent or legal guardian swears or affirms in writing that the minor is not ineligible for employment due to having perpetrated child abuse or having been convicted of a disqualifying crime that is enumerated in the CPSL.

- *Eliminate the cost of most clearances for volunteers.*
Effective immediately, the July 1, 2015 CPSL waives the State Police and DHS fees for background clearances for volunteers who will certify (under penalty of law) that (a) the clearance is necessary to comply with the CPSL mandates, (b) the volunteer has not received a clearance free of charge within the previous 57 months, and (c) the free background check may not be used for any other purpose (such as in connection with the individual's service as a paid employee in any position for which the clearance is required).

The state clearances are now free of charge. If required, the FBI clearance does still have a cost connected with it.

- *Extend the time that the recertification process is necessary.*

New certifications will be required of employees and volunteers every 60 months rather than every 36 months, as required by the 2014 law. This will include school employees not previously subject to the CPSL, but who instead were only subject to §111 of the Public School Code.

Any employee whose current certifications were issued prior to December 31, 2014 will be required to obtain new certifications within 60 months of their **oldest** certification. If that person's current certification is older than 60 months, then the new certifications must be obtained by December 31, 2015. Any person who was not previously required by law to obtain the certifications, but is now covered by the mandate, will have until December 31, 2015 to obtain the certifications as well.

- *Extend the time in which the certification process is to be completed.*

The new law pushes the effective date for the acquisition of clearance certifications by **new** volunteers to August 25, 2015 from the original 2014 law's trigger date of July 1, 2015 and all **existing** volunteers are required to have clearances by July 1, 2016.

All **existing** employees are required to have current clearances by December 31, 2015 and all **new** employees must have them in place before they are hired.

Although **existing** volunteers are not required by law to have clearances in place until July 1, 2016 it is our diocesan position, out of concern for the safety and protection of our children and vulnerable adults, that the current diocesan policy of having existing volunteers complete clearances immediately is still reasonable and justified.

- *Allows the use of existing current clearances in order to obtain employment if all conditions are met, as well as to allow the person to volunteer for multiple organizations.*

The 2014 law allows volunteers who have obtained the necessary clearances to volunteer for more than one agency or institution without having to obtain new clearances each time. The new bill will extend that same permission to employees who work for another agency or institution **if** all of the employee's clearances are current and if the employee affirms in writing that s/he would not be disqualified from employment due to the commission of a crime.