



SPONSOR: Sen. Pettyjohn & Sen. Sokola & Rep. Briggs King &  
Rep. Carson  
Sen. Richardson; Rep. Longhurst

DELAWARE STATE SENATE  
149th GENERAL ASSEMBLY

SENATE BILL NO. 256

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO BACKGROUND CHECKS FOR  
CHILD-SERVING ENTITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 309, Title 31 of the Delaware Code by making deletions as shown by strikethrough and  
2     insertions as shown by underline as follows:

3           § 309. Background checks for child-serving entities.

4           (a) A background check for employees or volunteers of child-serving entities shall consist of a fingerprinted  
5     Delaware and national background check completed by the State Bureau of Identification (SBI) and the Federal Bureau of  
6     Investigation (FBI) as well as a Child Protection Registry check completed by the Department of Services for Children,  
7     Youth and Their Families (DSCYF).

8           (b) *Definitions.* — The following words, terms and phrases, when used in this section, shall have the meaning  
9     ascribed to them in this subsection, except where the context clearly indicates a different meaning:

10           (1) "Administrator of educator preparation program" means the individual identified by the higher education  
11     institution as being responsible for overseeing the placement of candidates into student teaching placements in a  
12     Delaware public school.

13           (2) "Adult who is impaired" shall have the meaning as defined in § 3902 of this title.

14           (3) "Child Protection Registry" as used in this section, shall have the meaning as defined in § 921 of Title 16.

15           (4) "Child-serving entity" as used in this section shall mean:

16           a. The DSCYF; which includes any employee or volunteer of DSCYF or 1 of its contractors who have  
17     regular direct access to children and/or adolescents under the age of 18, but who do not provide child-care services  
18     at a facility as referred to in paragraph (b)(4)b. of this section;

19           b. Residential child-care facilities in Delaware which are under contract with or operated directly by  
20     DSCYF;

21           c. Public and private schools, including employees of the Department of Education;

22           d. Child-care providers as defined in § 342 of this title; or

23 e. Youth camps or summer schools that are exempt from child-care licensing requirements;

24 f. Facilities and individuals registered and eligible for Federal Child Care Development Block Grant  
25 funds through the Delaware Department of Health and Social Services;

26 g. Youth sports organization.

27 (19) “Youth Sports Organization” means a private, nongovernmental entity that organizes, operates, or  
28 coordinates a youth athletic team in this state if the team includes one or more minors.

29 (c) Except as provided in paragraph (c)(4) of this section, all child-serving entities are required to obtain criminal  
30 and Child Protection Registry checks for prospective employees, volunteers and contractors.

31 (3) Notwithstanding paragraph (c)(1) of this section, private schools, ~~and~~ youth camps, and youth sports  
32 organizations may choose to perform a name-based Delaware criminal background check for prospective employees,  
33 volunteers and contractors through the Delaware Justice Information System (DELJIS) and an out-of-state criminal  
34 record check using private, third-party providers of such checks, provided that any out-of-state criminal record check  
35 shall include a Social Security trace search and county-based criminal record search in the counties in which the  
36 individual has resided within the past 10 years. Such check shall be valid for a 5-year period.

37 (4) Any private school, including youth camps and youth sports organizations, directly operated by a private  
38 school, may choose not to perform the background checks and Child Protection Registry checks described in  
39 paragraphs (c)(1) and (c)(2) of this section, provided that the private school or youth camp that is directly operated by  
40 the private school informs parents or guardians of the youth in attendance that the school or youth camp is not meeting  
41 minimum background check safety requirements for its staff members. The school or camp must obtain and retain for  
42 at least 1 year a signed acknowledgement of same from the parents or guardians.

43 (6) All employees, volunteers and contractors shall inform their employer of any criminal conviction or entry  
44 on the Child Protection Registry which would lead to a prohibition pursuant to subsection (d) of this section.

45 (7) Child-serving entities may conditionally hire an employee or volunteer or place a child, pending the  
46 determination of suitability for employment. If the information obtained from the background checks indicates that the  
47 individual is prohibited from employment pursuant to subsection (d) of this section, the person may not continue in  
48 employment and is subject to termination.

49 (8) Any persons or organization whose primary concern is that of child welfare and care, which is not  
50 otherwise required to do so under the provisions of this section may voluntarily submit to the provisions of this  
51 subchapter at such person's or organization's expense pursuant to procedures established by the Superintendent of State  
52 Police.

53 (d) *Prohibitions.* —

54 (1) The following criminal convictions or entries on the Child Protection Registry shall prohibit an individual  
55 from being an employee, volunteer, or contractor for a child-serving entity for the amount of time indicated:

56 a. Felony convictions involving physical or sexual assault crimes against a child, an adult who is  
57 impaired, or elderly person. Such convictions shall require a lifetime prohibition.

58 b. Felony convictions involving physical or sexual assault crimes against another adult. Such prohibition  
59 shall last for 10 years following the date of conviction.

60 c. Any other convictions for a violent felony as defined in § 4201(c) of Title 11 not already included  
61 within the convictions subject to a lifetime or 10 year prohibition under paragraphs (d)(1)a. and b. of this section  
62 shall prohibit the individual for 7 years following the date of conviction, unless the felony is included within the  
63 crimes that can lead to entry on the Child Protection Registry pursuant to § 923 of Title 16, in which case the  
64 length of time for the prohibition shall be as provided in the Child Protection Registry regulations.

65 d. Misdemeanor convictions against children. Such prohibitions shall last for 7 years following the date of  
66 conviction, unless the misdemeanor is included within the crimes that can lead to entry on the Child Protection  
67 Registry pursuant to § 923 of Title 16, in which case the length of time for the prohibition shall be as provided for  
68 in the Child Protection Registry regulations.

69 (4) The child-serving entity may prohibit employment or volunteerism for longer than that set out in  
70 paragraph (d)(1) of this section for those crimes that are prohibited and are job-related. The prohibition must not be  
71 shorter than the time proscribed in paragraph (d)(1) of this section, provided such time restrictions are not otherwise  
72 prohibited by law.

#### SYNOPSIS

This bill adds "youth sports organizations" to the enumerated list of "child servicing entity" that requires background checks to be completed for those that are involved within the organizations. The bill seeks to further protect one of our most vulnerable populations to ensure that we have additional protections in place when it comes to our youth.

Author: Senator Pettyjohn