



SPONSOR: Rep. K. Williams & Sen. Poore

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 253

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO SBI PROVIDING SUBSEQUENT CRIMINAL HISTORIES OF THOSE APPLYING TO PUBLIC SCHOOLS, PRIVATE SCHOOLS AND YOUTH CAMPS.

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 strike through and
2 insertions as shown by underline as follows:

3 § 309 Background checks for child-serving entities.

4 (e) Upon completion of the criminal background and Child Protection Registry checks:

5 (1) Where the child-serving entity is a public or private school:

6 a. The SBI shall provide the criminal background information and DSCYF shall provide the Child
7 Protection Registry check information to the individual and the employing school or district, which shall
8 determine whether the individual is prohibited from being employed by the school or district, pursuant to
9 subsection (d) of this section. If the individual is not prohibited from employment by subsection (d) of this section
10 but the individual has a criminal conviction or is on the Child Protection Registry, the school or district shall make
11 a determination regarding suitability for employment using the factors in paragraph (d)(3) of this section.
12 Information obtained under this subsection is confidential and may only be disclosed to the chief school officer or
13 head of school and the chief personnel officer of the school and 1 person in each school who shall be designated to
14 assist in the processing of criminal background checks, receive training in confidentiality and be required to sign
15 an agreement to keep such information confidential.

16 b. Upon making its determination of suitability, the public school shall forward the determination to the
17 person seeking employment. If a determination is made to deny the person from employment based on the
18 criminal history of the person, the person shall have an opportunity to appeal to the chief school officer and/or
19 head of school or designee for reconsideration.

20 c. In the case of a student teacher:

21 1. The SBI shall provide the criminal background information and DSCYF shall provide the Child
22 Protection Registry check information to the individual and to the Higher Education Institution identified by

the individual, through the Administrator of Educator Preparation Program. The Higher Education Institution shall determine whether the individual is prohibited from being employed pursuant to subsection (d) of this section and shall send a copy of the complete criminal background check and Child Protection Registry check information to the district superintendent or charter school director of the Delaware school district or charter school considering the person as a candidate for a student teaching position. If the individual is not prohibited from employment by subsection (d) of this section but the individual has a criminal conviction or is or has been on the Child Protection Registry, the school or district shall make a determination regarding suitability for employment using the factors in paragraph (d)(3) of this section. Information obtained under this subsection is confidential and may only be disclosed to the chief school officer or head of school and the chief personnel officer of the school, and 1 person in each school who shall be designated to assist in the processing of criminal background checks, receive training in confidentiality and be required to sign an agreement to keep such information confidential.

2. Upon making its determination of suitability, the public school shall forward the determination to the administrator of educator preparation program of the designated higher education institution.

d. The SBI shall continue to provide all subsequent criminal history of the individual as it becomes available to those designated to receive the original criminal background information under subsection (e)(1) of this section and the Department of Education.

(2) Where the child-serving entity is DSCYF, a residential child-care facility under contract to or operated directly by DSCYF, or where the individual is applying to become an adoptive, foster or respite parent, SBI shall provide the criminal background information to DSCYF and DSCYF shall perform the Child Protection Registry check. DSCYF shall determine whether or not the individual is prohibited based on the results of the criminal background and Child Protection Registry checks. DSCYF may, by regulation, set forth criteria for unsuitability for its employees, contractors, volunteers, residential child-care employees, individuals applying to become an adoptive, foster or respite parent. These criteria shall relate to criminal history information and other information in addition to that set forth above. Such criteria and information shall be reasonably related to the prevention of child abuse. Upon making its determination, the DSCYF shall forward the determination to the applicant and the employer. Any adverse judgment affecting the applicant may be reviewed subject to regulations promulgated by DSCYF. The State Bureau of Identification may release all subsequent criminal history to DSCYF.

(3) Where the child-serving entity is a child-care provider, facility receiving Federal Child Care Development Block Grant funds, or a Youth Camp, SBI shall provide the criminal background information to DSCYF, and DSCYF

53 shall perform the Child Protection Registry check. DSCYF shall determine whether or not the individual is prohibited
54 by subsection (d) of this section based on the results of the criminal background and Child Protection Registry checks.
55 If the applicant has a criminal conviction or is on the Child Protection Registry but is not prohibited from employment
56 pursuant to paragraph (d)(1) of this section, DSCYF will assess the background check information and make a
57 determination of suitability based upon factors set forth by DSCYF regulation consistent with paragraph (d)(3) of this
58 section. If an applicant is determined unsuitable by DSCYF, the employer shall be informed. The employer shall make
59 the final determination of whether or not to employ the individual. Notwithstanding the above, if the employer is a
60 family child-care provider, DSCYF shall make the final decision based on the criteria established by regulations. If an
61 applicant is determined unsuitable by DSCYF, the applicant and employer shall be informed. Any adverse judgment
62 affecting the applicant shall be reviewed subject to regulations promulgated by the DSCYF. SBI may release all
63 subsequent criminal history to DSCYF.

64 (4) Where the child-serving entity is a private school or youth camp that chooses to perform background
65 checks using the method permitted in paragraph (c)(3) of this section, DELJIS shall perform a name-based criminal
66 check based on the identifying information provided by the private school or youth camp. If the individual is found to
67 have a criminal background that would make them prohibited for employment, DELJIS shall so inform the employer.
68 If the individual's background would not make them prohibited from employment, then DELJIS shall forward the
69 information to DSCYF, which shall perform a check of the Child Protection Registry. DSCYF shall determine whether
70 or not the individual is prohibited based on the results of the Child Protection Registry check. The SBI shall continue
71 to release all subsequent criminal history of the individual as it becomes available to the private school or youth camp.

SYNOPSIS

In addition to criminal background checks that are to be done upon application, this bill further permits SBI to release subsequent criminal histories of any individuals applying to public and private schools, including substitute teachers, and individuals applying to any private school or youth camp.