SPONSOR: Rep. K. Williams & Sen. Poore
Rep. Cooke; Sens. Hansen, Hocker, Mantzavinos, Sokola, Walsh, Wilson

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 47
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO BACKGROUND CHECKS.

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

Section 1. Amend § 309, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 309. Background checks for child-serving entities and other organizations.

(b) *Definitions.* — For purposes of this section:

(4) "Child-serving entity" means:

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

d. Child-care ~~providers as defined in § 3002A~~ facilities required to be licensed under Chapter 30A of Title 14. The requirements of this section are in addition to, and not a substitute for, any other requirements relating to child-care facilities that exist in federal or state law.

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

(14) ~~"Private school" means a school having any or all of grades kindergarten through 12, operating under a board of trustees and maintaining a faculty and plant which are properly supervised.~~

(19) "Youth camp" means a child-serving entity having custody or control of 1 or more school-age children, unattended by parent or guardian, for the purpose of providing a program of recreational, athletic, educational and/or religious instruction or guidance and operates for up to 12 weeks for 3 or more hours per day, during the months of May through September or some portion thereof, or during holiday breaks in the course of a school year and is operated in a space or at a location other than a space or location subject to licensing ~~pursuant to § 3004A~~ under Chapter 30A of Title 14.



HD : KL : DS : 3501530021
DLS : HVW : CBM : 5081530080
Released: 06/24/2025 03:53 PM

(c) ~~Except as provided in paragraph (c)(4) of this section, all~~ All child-serving entities are required to obtain criminal and Child Protection Registry checks for prospective employees, volunteers, and contractors. Members of school boards must obtain criminal and Child Protection Registry checks under § 209 or § 511 of Title 14.

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

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

(5) Costs associated with obtaining ~~said~~ criminal history information and Child Protection Registry information are borne by the applicant, except as follows: ~~for applicants designated in paragraph (b)(4)d. of this section, whose costs are borne by the State. Notwithstanding the foregoing:~~

c. The Department of Education and DSCYF may pay for background check costs for prospective or current employees.

d. The State shall bear the costs of background checks for applicants to child-care facilities required to be licensed under Chapter 30A of Title 14.

(9) The Superintendent of State Police may promulgate regulations governing the circumstances under which a background check may be re-used upon written authorization of the individual upon whom a background check was conducted. The regulations permitting re-use must be limited in scope and address the relationship between the original purpose for which the background check was requested, the agency or agencies requesting re-use, the type of license, position of employment, or benefit upon which re-use is predicated and the application process.

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

(1) Where the child-serving entity is a public ~~or private~~ school, a contractor with a school district or the Department of Education, or an employee of a contractor who is an early intervention service provider:

d. ~~In the case of an employee or contractor of the Department of Education, SBI may release all subsequent criminal history to the Department of Education.~~

(4) ~~Where the child-serving entity is a private school or youth camp that chooses to perform background checks using the method permitted in paragraph (e)(3) of this section, DELJIS shall perform a name-based criminal check based on the identifying information provided by the private school or youth camp. If the individual is found to have a criminal background that would make them prohibited for employment, DELJIS shall so inform the employer. If the individual's background would not make them prohibited from employment, then DELJIS shall forward the information to DSCYF, which shall perform a check of the Child Protection Registry. DSCYF shall determine whether or not the individual is prohibited based on the results of the Child Protection Registry check.~~ [Repealed.]

(6) The SBI and DELJIS shall provide all subsequent Delaware criminal history of any current employee or contractor subject to a background check under this section to the entity designated to receive the original criminal history information under paragraphs (e)(1) through (5) of this section. If the "Rap Back System" as defined by § 8502 of Title 11 is available to SBI, SBI shall provide all subsequent criminal history record information available through the Rap Back System for a current employee or contractor subject to a background check under this section to the entity designated to receive the original criminal history information under paragraphs (e)(1) through (5) of this section.

Section 2. Amend Chapter 3, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 309A. Background checks for private schools.

(a) A background check is required for all employees, contractors, and volunteers of private schools. The prohibitions set forth in § 309(d) of this title apply to employees, contractors, and volunteers of private schools.

(b) For purposes of this section:

(1) "Background check" means a fingerprint-based Delaware and national background check completed by the State Bureau of Identification (SBI) and the Federal Bureau of Investigation (FBI) as well as a Child Protection Registry check completed by the Department of Services for Children, Youth and Their Families (DSCYF).

(2) "Child Protection Registry" means as defined in § 309 of this title.

(3) "Contractor" means a person, not an employee, providing services or seeking a contract to provide services within a private school who has regular direct access to children or provides services directly to a child or children.

(4) "Direct access" means as defined in § 309 of this title.

(5) “Employee” means any individual employed or seeking employment for compensation with a private school and includes student teachers or any employee of the school or an employee of a related or parent organization of the private school who for any reason has regular direct access to children in a private school .

(6) “Private school” means a school having any or all of grades kindergarten through 12, operating under a board of trustees, which is not a public school as that term is defined in § 309 of this title. “Private school” includes a summer school operated by a private school and a youth camp directly operated by a private school.

(7) “Volunteer” means an individual providing volunteer services within a private school who has regular direct access to children.

(8) “Youth camp” means as defined in § 309 of this title.

(c) (1) SBI shall furnish information pertaining to the identification and criminal history record of prospective employees, volunteers, and contractors of private schools, except as otherwise allowed or required, provided that the prospective employee, volunteer, or contractor submits to a reasonable procedure established by standards set forth by the Superintendent of State Police to identify the person whose record is sought. This procedure must include the fingerprinting of the individual subject to a criminal background check and the provision of such other information as may be necessary to obtain a report of the individual’s entire criminal history record from SBI and a report of the individual’s entire federal criminal history record under the authorization of the Adam Walsh Child Protection and Safety Act or any other applicable federal law. Notwithstanding any provision to the contrary, the information to be furnished by SBI shall include child sex abuser information. The Division of State Police shall be the intermediary for purposes of this section.

(2) A private school must obtain a statement signed by a prospective employee, contractor, or volunteer that authorizes a full release to the private school to obtain information provided as a result of the Child Protection Registry check. The DSCYF will process a Child Protection Registry check of the individual upon receipt of the signed statement, which must be attached to the request from the private school for the Child Protection Registry check.

(d) (1) Upon completion of a criminal background and Child Protection Registry check the SBI shall provide the criminal history background check and DSCYF shall provide the Child Protection Registry check information to the head of the private school or the head of school’s designee. The private school shall determine whether the individual is prohibited from employment, contractual services, or volunteering at the private school according to the prohibitions set forth in § 309(d) of this title.

(2) Criminal history and Child Protection Registry check information is confidential and may only be disclosed to the private school’s head of school or the head of school’s designee.

Section 3. This Act takes effect on July 1, 2026 and child-serving entities and private schools must comply with its requirements by September 1, 2026.