

**NOTIFICATION OF NEW REQUIREMENTS UNDER
CHILD PROTECTIVE SERVICES LAW**

December 11, 2014

In 2014, the Pennsylvania Legislature enacted sweeping changes to the Child Protective Services Law (CPSL), including but not limited to expansion of mandated reporters, expansion of individuals subject to required clearances from the Pennsylvania State Police, Department of Human Services (formerly Department of Public Welfare) and the FBI, expansion of the frequency of the required clearances and imposition of significant criminal penalties for noncompliance.

The purpose of this notification is to provide guidance and related information to facilitate your compliance with the CPSL, as amended. It is not intended to constitute legal advice. If you have any specific questions concerning the application of the CPSL to your particular circumstances, you are encouraged to consult with an attorney.

I. MANDATED REPORTERS

A. WHO ARE MANDATED REPORTERS? There are now fourteen separate categories of individuals who are mandated reporters, including all Clergy and all employees/volunteers who, as part of a regularly scheduled program, activity or service, accept responsibility for a child or have direct contact with children. **EXAMPLES:** Child Care Employees, Sunday School Teachers, Youth Fellowship Volunteers, Camp Volunteers.

B. WHEN MUST YOU REPORT AS A MANDATED REPORTER? If you have reasonable cause to suspect a child is a victim of child abuse, a report must be made, without exception. This includes situations where (i) you come into contact with a child that has been abused, (ii) an individual makes a specific disclosure to you that an identifiable child is the victim of child abuse or (iii) an individual 14 years of age or older makes a specific disclosure to you that he/she has committed child abuse.

C. TO WHOM IS THE REPORT MADE? Immediately call Childline at 800-932-0313 to make the required report and tell your immediate supervisor within the church organization. You must personally make the report, and you can no longer rely on someone else (for example, a supervisor) to make the report. In addition, a written report on [CY-47 Form](#) must be made to the county Children and Youth Agency within 48 hours of your oral report to Childline.

D. WHAT IF I AM NOT A MANDATED REPORTER AND SUSPECT CHILD ABUSE HAS OCCURRED? Any person may, and should, report suspected child abuse, even if the person is not a Mandated Reporter. These individuals are called Permissive Reporters.

E. WHEN IN DOUBT ALWAYS REPORT, REPORT, REPORT!

F. MANDATED AND PERMISSIVE REPORTERS ARE IMMUNE FROM CIVIL LIABILITY FOR GOOD FAITH REPORTING OF SUSPECTED CHILD ABUSE. But, be very careful about making any public statements about the report, as this may give rise to a defamation claim.

II. MANDATORY EMPLOYEE AND VOLUNTEER CLEARANCES UNDER THE CPSL

A. WHO MUST OBTAIN CLEARANCES UNDER THE CPSL?

1. **All incumbent and prospective employees**, 14 years of age or older, who are responsible for the welfare of a child or have direct contact with children, commencing December 31, 2014.
2. **All incumbent and prospective volunteers**, 18 years of age or older, who are responsible for the welfare of a child or have direct contact with children, commencing July 1, 2015.

B. WHAT CLEARANCES ARE REQUIRED UNDER THE CPSL?

1. For Employees:

- [Pa State Police Criminal History Report](#);
- [Pa Department of Human Services Certification](#); and
- [FBI Criminal History Report](#) (fingerprints required).

2. For Volunteers:

- [Pa State Police Criminal History Report](#);
- [Pa Department of Human Services Certification](#); and
- [FBI Criminal History Report](#) (fingerprints required), but Volunteers may be excused from this Report if they have been a Pennsylvania resident continuously for previous 10 years, have not committed certain designated crimes and sign an [Affidavit](#) under oath to this effect.

C. HOW OFTEN MUST CPSL CLEARANCES BE OBTAINED?

1. By December 31, 2014 for employees, and by July 1, 2015 for volunteers.
2. CPSL clearances are effective for 3 years and must be obtained again by employees and volunteers every three 3 years.
3. For incumbent employees, CPSL clearances must be obtained within 3 years of the most recent clearances (does not include TRAK-1 clearances), or if clearances are older than 3 years, within 1 year of December 31, 2014. Incumbent employees who presently do not have the required CPSL clearances must obtain them by December 31, 2014.

D. CAN CPSL CLEARANCES BE TRANSFERRED TO OTHER EMPLOYERS OR ORGANIZATIONS?

1. Employee clearances cannot be transferred to a new employer, but they can be transferred and used as clearances for volunteer positions in other organizations.
2. Volunteer clearances can be transferred and used as clearances for volunteer positions in other organizations.

E. CAN AN EMPLOYER OR ORGANIZATION ESTABLISH ADDITIONAL CLEARANCE STANDARDS IN ADDITION TO THOSE REQUIRED BY THE CPSL?

1. This is permissible for both employees and volunteers.
2. For example, the Susquehanna Conference is requiring that all of its incumbent and prospective employees obtain CPSL clearances even though some employees are not required by the CPSL to obtain clearances since they are not responsible for the welfare of a child and do not have direct contact with children as part of their job duties.

F. WHAT ARE THE PROCEDURES FOR OBTAINING CPSL CLEARANCES?

1. [Procedures for Pastors and Laity](#) assigned to lead a congregation.
2. [Procedures for Employees.](#)
3. [Procedures for Volunteers.](#)

III. CRIMINAL PENALTIES AND CIVIL LIABILITY FOR NONCOMPLIANCE WITH STATUTORY REQUIREMENTS:

- A. Failure to Comply with CPSL Requirements is Subject to Significant Criminal Penalties and Civil Liabilities. Timely and Continuing Compliance with All CPSL Requirements is Absolutely Imperative.**
- B. Mandated Reporters' Failure to Report Suspected Child Abuse:** Criminal penalties range from second degree misdemeanor to second degree felony, depending on the facts.
- C. Failure to Require Mandatory CPSL Clearances:** Third degree misdemeanor.
- D. Failure by Employee or Volunteer to Disclose Information that Would be a Basis for Denying Employment or Volunteer Status –** Third degree misdemeanor.
- E. Civil Litigation:** Potentially enormous liability for noncompliance with CPSL requirements.