

Commonwealth of Pennsylvania
Child Abuse and Mandated Reporter Legislation
(August 2015)

A Unit Guide to Compliance for
Act 15 of 2015 (formerly HB No. 1276)



OVERVIEW:

Act 15 of 2015 (formerly House Bill 1276) replaces Act 153 which was signed into law in late 2014 and made effective January 1, 2015. Act 15 was signed by Governor Wolf on July 1, 2015, and made effective immediately. Act 15 was the result of several months of work on the part of both Representatives and Senators from across the Commonwealth of Pennsylvania and is intended to amend the current law to clarify and identify volunteers and employees who work directly and routinely with children.

Compliance with the new requirements of Act 15 is a legal requirement of the Commonwealth of Pennsylvania. All agencies and institutions who deal with youth in the Commonwealth are required to comply with this newest legislation by the published deadlines. Local councils and Scouting volunteers must make plans and implement procedures to comply with the published requirements by the due dates.

It is important to recognize the Youth Protection standards of the Boy Scouts of America do not change in light of this new Pennsylvania legislation. The volunteer background checks that are part of the Adult Volunteer Application process, training requirements, policies, and procedures that have been and are in effect will continue. For Scouting volunteers throughout the Commonwealth of Pennsylvania, the clearances and requirements of PA Act 15, the new mandatory reporting requirements, and changes to the definitions of abuse are in addition to the safeguards that have been in place by the Boy Scouts of America for many years.

The single source of the most up-to-date information on this legislation, as well as any changes that may occur in the future is the "Keep Kids Safe" website (<http://keepkidssafe.pa.gov/>). The website contains a wealth of information, but most importantly regularly revised FAQ's, reporting forms, and links to the required clearances, for both volunteers and employees, are easily accessible. Everyone should be reminded to check the website regularly.

Act 15 has made a number of changes to what was initially enacted in the Commonwealth. Certainly the elimination of fees to secure clearances for all volunteers has eliminated a huge hurdle for volunteerism in Pennsylvania. The process of securing clearances will still require an investment of time on the part of every volunteer, however, these clearances will add an additional opportunity to provide the safest program possible.

The safety and well-being of the youth registered in the Boy Scouts of America has been and will continue to be paramount for our program. Compliance with the new legal requirements of the Commonwealth, as with any of our Pennsylvania laws, is the responsibility of its citizenry. We have no other recourse than to comply with the law as published.

WHAT HAS CHANGED:

- August 25, 2015 is now the compliance deadline for new volunteers (not previously registered prior to July 1, 2015) to secure their clearances and FBI criminal history (if required).
- There is no cost for volunteer clearances (PSP Criminal History and DHS Child Abuse) after July 25, 2015.
- The FBI criminal history clearance (for volunteers who have not been residents of Pennsylvania for the past ten years or residents of other states) is required only once upon establishing residency and when first applying for volunteer service.
- The cost of the FBI criminal history clearance (fingerprinting) through DHS has been reduced to \$25.75 after July 25, 2015.
- Volunteer clearances (PSP Criminal History and DHS Child Abuse) are valid for 60 months.
- Volunteer clearances may be applied for, at no cost to the volunteer, every 57 months.
- Volunteer clearances, provided they have not expired, are transferable to other volunteer positions or agencies.
- Volunteer clearances (PSP Criminal History and DHS Child Abuse) obtained for volunteer purposes may not be used for employment purposes.
- Clearances obtained for employment purposes may also be used for volunteer positions.
- Clearances are NOT required for employees who are administrative or support personnel and do not have direct contact with children.
- A FBI criminal history clearance is NOT required for minor employees between the ages of 14 and 17 if they have lived in the Commonwealth for 10 years and their parent or legal guardian affirms the minor employee has not been convicted of a disqualifying crime.
- Employers or organizations are permitted to accept non-original copies of the required documents from employees and volunteers.
- Volunteers from states outside of the Commonwealth of Pennsylvania – individuals who reside in another state or country may serve as a volunteer for no more than 30 days in a calendar year as long as they provide clearances from their state or country of residence. If the individual will be volunteering for more than 30 days, they must obtain clearances as required of a Pennsylvania resident.
- Volunteers who reside in Pennsylvania do not have a provisional period, and must provide clearances when submitting their BSA Adult Application.

WHAT HAS NOT CHANGED:

- The definition of who is required to apply for and provide clearances.
- Existing employees, those employed prior to January 1, 2015, must secure both clearances (PSP Criminal History and DHS Child Abuse) and their FBI criminal history clearance prior to December 31, 2015
- The process for volunteers to obtain child abuse and criminal history clearances. Both clearances will continue to be applied for (and paid for, if necessary) electronically. All necessary instructions and links can be found at:
<http://www.dhs.state.pa.us/findaform/childabusehistoryclearanceforms/index.htm>
- Definitions of child abuse as originally published.
- Requirements of and for Mandated Reporters.
- The compliance deadline for existing volunteers (registered with the BSA prior to July 1, 2015) to secure clearances (and FBI federal criminal history clearance, if required) is July 1, 2016.
- BSA volunteers who are required to apply for a FBI criminal history clearance (those who have NOT resided in Pennsylvania continuously for the past ten years), would apply through the Department of Human Services (\$25.75 after July 25, 2105).
- Volunteers who are not required to apply for a FBI criminal history clearance (because they have been residents of Pennsylvania for the previous ten years and are working in an unpaid position) must swear or affirm in writing that they are not barred from volunteering due to a conviction or offense by completing a “Disclosure Statement Application for Volunteers”.
- The renewal date for all certifications is from the date of the oldest certification.
- If a volunteer is arrested for or convicted of an offense that would constitute grounds for denying participation in a program, activity or service, or is named as a perpetrator in a founded or indicated report, the volunteer must provide the administrator or their designee with written notice not later than 72 hours after the arrest, conviction or notification that the person has been listed as a perpetrator in the statewide database.

DEPARTMENT OF HUMAN SERVICES INTERPRETATIONS SPECIFIC TO THE BSA:

- Venturers or Explorers - Clearances are NOT required for 18-20 year old Venturers or Explorers, as they are not volunteers but program participants (even if these youth are providing leadership to youth under 18 years of age).
- Special Needs Scouts - Clearances are NOT required for special needs Scouts (age 18+) as they are program participants.
- Tiger Cub Adult Partners - Clearances are NOT required for Tiger Cub Adult Partners as they are participating in the BSA program as parents. Clearances ARE required for Tiger Cub Den Leaders.
- Merit Badge Counselors - Clearances ARE REQUIRED for Merit Badge Counselors (with or without parents present).
- Eagle Boards of Review - Clearances are NOT required for community volunteers serving on Eagle Boards of Review.
- Drivers to camps or events – if a parent asks another parent (parent to parent) to drive their son to an event or camp then clearances are NOT required. If however a carpool is organized or drivers are recruited by the unit's leaders, then clearances ARE REQUIRED.
- Parents helping with fundraisers (Show and Sell and/or store front sales) – if the parent will be or could be responsible for a child other than their own son (or daughter) then clearances ARE REQUIRED.
- Adults who stay occasionally at a meeting to help out the leader in charge – clearances are NOT required unless their participation becomes a weekly occurrence.
- At Cub Scout Pack meetings or day events where parents are attending with their sons - clearances are NOT required of parents as volunteers.
- At events where every Scout must participate with their parent(s) – clearances are NOT required of parents as volunteers.
- At events where Scouts are participating without their parent(s) – clearances ARE REQUIRED of parents as volunteers, as they may be acting in lieu of a parent and will have routine interaction and direct contact with youth.

THE NEW DEFINITIONS OF ABUSE:

What is Child abuse?

Child abuse, according to the Child Protective Services Law (CPSL), means intentionally, knowingly or recklessly doing any of the following:

- Causing bodily injury to a child through any recent act or failure to act.
- Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
- Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
- Causing sexual abuse or exploitation of a child through any act or failure to act.
- Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
- Causing serious physical neglect of a child.
- Causing the death of the child through any act or failure to act.

Child abuse also includes certain acts in which the act itself constitutes abuse without any resulting injury or condition. These recent acts include any of the following:

- Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
- Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
- Forcefully shaking a child under one year of age.
- Forcefully slapping or otherwise striking a child under one year of age.
- Interfering with the breathing of a child.
- Causing a child to be present during the operation of a methamphetamine laboratory, provided that the violation is being investigated by law enforcement.
- Leaving a child unsupervised with an individual, other than the child's parent, who the parent knows or reasonably should have known was required to register as a Tier II or III sexual offender or has been determined to be a sexually violent predator or sexually violent delinquent.

"Recent" is defined as an abusive act within two years from the date the report is made to ChildLine. Sexual abuse, serious mental injury, serious physical neglect and deaths have no time limit.

Helpful Resources:

<http://keepkidssafe.pa.gov/>

MANDATED REPORTERS:

Mandated Reporters are required by law to report suspected child abuse:

- ▶ All Scouting volunteers and employees (at all times).
- ▶ Mandated Reporter – individuals (paid or unpaid) who accept responsibility for a child as part of a regularly scheduled program, activity, or service.
- ▶ Persons supervised or managed by a mandated reporter
- ▶ Independent contractors

Mandatory Reports of Abuse:

- ▶ Immediate and direct report of actual or suspected abuse to *ChildLine* either electronically at www.compass.state.pa.us/cwis or by calling 1-800-932-0313.
- ▶ Written report (Form CY-47*) to the county children and youth agency within 48 hours.
- ▶ After making the report to *ChildLine*, notify Scout Executive of report.
- ▶ All must act on any report of arrest or abuse charge while employed or volunteering.

* - Form CY-47 can be obtained at www.KeepKidsSafe.pa.gov or from the children and youth agency. If a report is made electronically, no CY-47 is required to be completed.

Basis for Report:

If reasonable cause to suspect child abuse under any of the following circumstances:

- ▶ Mandated reporter comes in contact with youth in course of employment or occupation
- ▶ Mandated reporter is directly responsible, or is affiliated with entity that is directly responsible, for child care & supervision
- ▶ A specific disclosure is made to a mandated reporter
- ▶ Self-reporting by person 14 years of age or older to the mandated reporter

Mandated reporters through capacity as staff of agency must notify person in charge and Scout executive. The person in charge must cooperate with any investigation.

Helpful Resources:

Mandated Reporter FAQ - <http://keepkidssafe.pa.gov/supportingdocuments/index.htm>

VOLUNTEER COMPLIANCE:

Who needs clearances?

Beginning July 1, 2015, an adult (18 years of age or older) applying for an unpaid position as a volunteer responsible for the welfare of a child (acting in lieu of or on behalf of the parent) or having direct contact (provide care, supervision, guidance, or control of children) and routine interaction (regular, repeated, or on-going contact) with children will need clearances.

NOTE: As of this writing, the Pennsylvania Department of Human Services has provided the definition above as to which volunteers are required to submit clearances under this new law. The challenge for local councils has been and continues to be aligning the multitude of volunteer positions within the organization with the need for clearances. As BSA volunteers more often than not wear multiple hats and accept multiple responsibilities (where the definition above would apply) councils have adopted a policy of requiring clearances from all registered volunteers.

What clearances are required of local council volunteers (applying for an unpaid position)?

1. Report of criminal history from the Pennsylvania State Police (PSP) (No cost as of July 25, 2015)
<https://epatch.state.pa.us/>.

NOTE: This clearance from the Pennsylvania State Police will display on the computer screen only. This report must be printed as a .PDF if it is to be saved to a computer! Free .PDF converters are available for download from the web.

2. Child Abuse History Clearance from the Department of Human Services (Child Abuse) (No cost as of July 25, 2015)
<http://www.compass.state.pa.us/cwis>
3. For volunteers who have NOT been a Pennsylvania resident continuously for the past ten years, a FBI fingerprint based federal criminal history submitted through the Pennsylvania State Police or its authorized agent (FBI) is required. (Cost of \$25.75, as of July 25, 2015).
<https://www.pa.cogentid.com/index.htm>
4. For volunteers who have been a Pennsylvania resident continuously for the past ten years, they must swear or affirm in writing that they are not disqualified from service based on a previous conviction or offense. These volunteers must complete a "Disclosure Statement Application for Volunteers".
<http://keepkidssafe.pa.gov/supportingdocuments/index.htm>

Clearances for new Volunteers (after August 25, 2015):

Any new volunteer who begins his or her volunteer service on or after August 25, 2015 must apply for and submit all three clearances to their local council. The council must receive all compliance materials before the volunteer participates in any activity where he or she will supervise and/or have direct contact with children under the age of 18. New volunteers (after August 25, 2015) should not be registered until the council has evidence of compliance.

Who Pays for Clearances??

Effective July 25, 2015, there will be no cost for either Report of Criminal History from the Pennsylvania State Police (PSP) or the Child Abuse History Clearance from the Department of Human Services. The volunteer is responsible for

paying the cost of the fingerprint based FBI federal criminal history clearance, if required. The only time a council is required to bear the cost of the clearance is when there is a reasonable belief that the volunteer was arrested or convicted of an offense that would deny participation or the volunteer is named as a perpetrator in an indicated or founded report. In these situations, the council must immediately require and pay for the volunteer to obtain their clearances.

May a Volunteer be Denied Participation or Removed from Service Based on this new PA Law?

If a volunteer is arrested for or convicted of an offense that would constitute grounds for denying participation in a program, activity or service, or is named as a perpetrator in a founded or indicated report, the volunteer must provide the Chartered Organization and Scout executive or their designee with written notice not later than 72 hours after the arrest, conviction or notification that the person has been listed as a perpetrator in the statewide database.

A volunteer who willfully fails to disclose information as required above commits a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of a volunteer position.

What is the Renewal Requirement for Clearances?

Beginning August 25, 2015, all volunteers will be required to obtain clearances every 60 months. Volunteers may apply or and receive both the Pennsylvania State Police (PSP) and the Child Abuse History Clearance from the Department of Human Services every 57 months. Timeframes for renewed clearances are based upon the date of each individual clearance. If the council elects to renew all clearances at the same time (i.e. at the unit's recharter renewal date), the date of the oldest clearance obtained should be used to calculate the five year expiration date, rather than using the most recent clearance (avoiding mid charter clearance expirations).

Volunteers are required to obtain updated clearances as follows:

- Within 36 months of the date of the most recent clearance;
- By July 1, 2016, if the clearance is older than 36 months; or
- By July 1, 2016, if they were approved as a volunteer before July 1, 2015, and had not received a clearance because they previously were not required to obtain clearances.

Out-of-state Volunteer 30 Day Provisional Period:

Volunteers from states outside of the Commonwealth of Pennsylvania – individuals who reside in another state or country may serve as a volunteer for no more than 30 days in a calendar year as long as they provide clearances from their state or country of residence. If the individual will be volunteering for more than 30 days, they must obtain clearances as required of a Pennsylvania resident.

Helpful Hints:

- ✓ An individual's clearances are transferable from volunteer to volunteer positions, within the council or between agencies, regardless of the time frame, as long as the clearances have not expired.
- ✓ The compliance dates provided above are based on meeting the requirements for the Commonwealth of Pennsylvania. Chartered Organizations of individual units may set dates, which are prior to the deadlines established for Pennsylvania, due to individual Chartered Organization insurance requirements.

Helpful Resources:

Volunteer FAQ's - <http://keepkidssafe.pa.gov/supportingdocuments/index.htm>



JUNIATA VALLEY COUNCIL

BOY SCOUTS OF AMERICA.

DISCLOSURE STATEMENT APPLICATION FOR VOLUNTEERS

Required by the Child Protective Service Law

23 Pa. C.S. Section 6344.2 (relating to volunteers having contact with children)

I swear/affirm that I am seeking a volunteer position and **AM NOT** required to obtain a clearance through the Federal Bureau of Investigation, as:

- The position I am applying for is unpaid; **and**
- I have been a resident of Pennsylvania during the entirety of the previous ten-year period.

I swear/affirm that I have not been named as a perpetrator of a founded report of child abuse within the past five (5) years as defined by the Child Protective Services Law.

I swear/affirm that I have not been convicted of any of the following crimes under Title 18 of the Pennsylvania consolidated statutes or of offenses similar in nature to those crimes under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

Chapter 25 (relating to criminal homicide)
Section 2702 (relating to aggravated assault)
Section 2709 (relating to stalking)
Section 2901 (relating to kidnapping)
Section 2902 (relating to unlawful restraint)
Section 3121 (relating to rape)
Section 3122.1 (relating to statutory sexual assault)
Section 3123 (relating to involuntary deviate sexual intercourse)
Section 3124.1 (relating to sexual assault)
Section 3125 (relating to aggravated indecent assault)
Section 3126 (relating to indecent assault)
Section 3127 (relating to indecent exposure)
Section 4302 (relating to incest)
Section 4303 (relating to concealing death of child)
Section 4304 (relating to endangering welfare of children)
Section 4305 (relating to dealing in infant children)
Section 5902(b) (relating to prostitution and related offenses)
Section 5903(c) (d) (relating to obscene and other sexual material and performances)
Section 6301 (relating to corruption of minors)
Section 6312 (relating to sexual abuse of children), or an equivalent crime under Federal law or the law of another state.

I have not been convicted of a felony offense under Act 64-1972 (relating to the controlled substance, drug device and cosmetic act) committed within the past five years.

I understand that I shall not be approved for service if I am named as a perpetrator of a founded report of child abuse within the past five (5) years or have been convicted of any of the crimes listed above or of offenses similar in nature to those crimes under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

I understand that if I am arrested for or convicted of an offense that would constitute grounds for denying participation in a program, activity or service under the Child Protective Services Law as listed above, or am named as perpetrator in a founded or indicated report, I must provide the administrator or designee with written notice not later than 72 hours after the arrest, conviction or notification that I have been listed as a perpetrator in the Statewide database.

I understand that if the person responsible for employment decisions or the administrator of a program, activity or service has a reasonable belief that I was arrested or convicted for an offense that would constitute grounds for denying participation in a program, activity or service under the Child Protective Services Law, or was named as perpetrator in a founded or indicated report, or I have provided notice as required under this section, the person responsible for employment decisions or administrator of a program, activity or service shall immediately require me to submit current clearances obtained through the Department of Human Services, the Pennsylvania State Police, and the Federal Bureau of Investigation, as appropriate. The cost of clearances shall be borne by the employing entity or program, activity or service.

I understand that if I willfully fail to disclose information required above, I commit a misdemeanor of the third degree and shall be subject to discipline up to and including denial of a volunteer position.

I understand that the person responsible for employment decisions or the administrator of a program, activity or service is required to maintain a copy of my clearances.

I hereby swear/affirm that the information as set forth above is true and correct. I understand that false swearing is a misdemeanor pursuant to Section 4903 of the Crimes Code.

Name: _____ Signature: _____

Witness: _____ Signature: _____

Date: _____



JUNIATA VALLEY COUNCIL

BOY SCOUTS OF AMERICA.

Effective August 25, 2015

The following are required to register as an Adult in the Juniata Valley Council, BSA

- Signed Adult Volunteer Application
 - Volunteer signs in 2 spots
 - Committee Chairperson Approval
 - Chartered Organization Representative Approval
- Youth Protection Certificate (*Training available at <http://www.scouting.org/Training/YouthProtection.aspx>*)
- Pennsylvania Clearances (*all can be found at www.KeepKidsSafePa.gov*)
 - Department of Human Services
 - Pennsylvania State Police
 - FBI Fingerprinting (if not a 10 year resident of Pennsylvania)

OR

Affidavit confirming 10 year residence of Pennsylvania – ***DISCLOSURE STATEMENT APPLICATION FOR VOLUNTEERS Required by the Child Protective Service Law 23 Pa. C.S. Section 6344.2 (relating to volunteers having contact with children)***

http://keepkidssafe.pa.gov/cs/groups/webcontent/documents/document/c_160267.pdf.

- Appropriate Registration Fees

All Documentation can be faxed to 717-667-9236, emailed to angela.kaler@scouting.org, given to your District Executive or delivered in person to the Juniata Valley Council Service Center at 9 Taylor Drive, Reedsville, PA 17084