

## Act 169 of 1996

**PURPOSE:** Requires criminal history background checks for employees of NH, PCH, Dom Care, Home Health and ADC. Employees with convictions for prohibitive offenses are precluded from working in these facilities.

### PROHIBITIVE OFFENSES:

- Criminal Homicide
- Aggravated Assault
- Kidnapping
- Unlawful Restraint
- Rape
- Statutory Sexual Assault
- Involuntary Deviate Sexual Intercourse
- Sexual Assault
- Aggravated Indecent Assault
- Indecent Assault
- Arson and Related Offenses
- Burglary
- Robbery
- Theft (Felony or 2 Misdemeanors)
- Forgery
- Securing Execution of Documents by Deception
- Incest
- Concealing the Death of a Child
- Felony Drug Offense
- Child Endangerment
- Dealing in Infant Children
- Intimidation of Witness
- Retaliation Against a Witness
- Prostitution (Felony Offense)
- Obscene or Other Sexual Materials
- Corruption of Minors

**EMPLOYEES:** An employee is defined as an applicant or new employee, including contract employees with direct contact with residents or unsupervised access to the personal living quarters. Also included are persons employed or contracted to provide care to a care-dependent individual for monetary consideration in the individual's residence.

**FACILITY:** The type of facilities covered by the Act are as follows:

- domiciliary care home
- home health agency
- long-term care nursing facility
- adult daily living center/day care
- personal care home

The Act also includes any private or public organization which provides care to care-dependent persons in their residence.

In addition, PA Department of Public Welfare has determined that the following DPW-licensed and DPW-operated residential facilities for adults are also covered by the Act:

- personal care home
- community residential rehabilitation services
- community homes for individuals with mental retardation
- family living homes
- ICF/MR's (private and state)
- state mental hospitals
- nursing facilities (licensed by DPW)
- long term structured residences

## Act 169 of 1996 (continued)

In addition, PA Department of Health has determined that the following DOH-licensed facilities are also covered by the Act:

- hospices
- birth centers
- home health care agencies – any public or private organization which provides care to a care-dependent individual in their place of residence
- home care registry or “registry” – any organization or business entity that supplies, arranges or refers independent contractors to provide activities of daily living or instrumental activities of daily living or specialized care in the consumer’s place of residence or other independent living environment for which the registry receives a fee, consideration or compensation of any kind.

**PROCESS:** An applicant/new hire who has been a resident of the state for the last 2 years, uninterrupted, needs to obtain a *Request for Criminal History Background Check* from the nearest PA State Police barracks. The applicant/new hire will complete the application and forward it with a money order or cashier’s check for \$10 to the State Police for processing. The Act does allow for the provisional hire of an employee for 30 days if the conditions listed below are met. If there is no criminal history or record, the PSP will forward a letter stating same. If there is a criminal record, the PSP will forward a copy of the *rap sheet* to the applicant.

If the applicant has not been a PA resident for the 2 years before application, he/she will need to have PSP criminal history background check completed **and** an FBI background check. The applicant will obtain an FBI fingerprint card either from his/her prospective employer or by contacting PDA. After obtaining the fingerprint card, the applicant will go to the police to be fingerprinted. The completed card (fingerprints and requested information) will be forwarded to PDA along with a money order, cashier’s check, or certified check for \$30.25, made payable to Commonwealth of Pennsylvania.

PDA is the intermediary between the facility and the FBI. PDA and local AAA’s have the fingerprint cards and information sheets. The applicant/employee will need to write in the *Reason Fingerprinted Block*, in block letters, “Long Term Care Employment, Act 1996-169, Sec. 502 (a) (2).” When the facility/employee/ new hire fills out fingerprint card and background check transmittal form, they are mailed to PDA. The fingerprint card cannot be bent or folded in any way. PDA reviews each application for accuracy. If it is accurate, PDA mails it to the FBI. If not, PDA will mail it back to be completed properly. After information is sent to the FBI, the FBI will run a check and send the results to PDA. PDA will notify both the applicant and the facility of the outcome. PDA is the entity responsible for interpreting the *rap sheet* from the FBI to see if any of the crimes are those enumerated by Act 169.

To provisionally hire an employee for 30 days under PSP, or up to 90 days for FBI, requires:

1. Applicant must supply proof that he/she applied for the background check;
2. Applicant must sign a statement that he/she has not been convicted of any of the enumerated offenses;
3. Facility must have no personal knowledge that the applicant has been convicted of the offenses.