

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend, on a temporary basis, the Criminal Background Checks for the Protection of Children Act of 2004 to clarify that persons convicted of certain crimes are not automatically excluded from working as employees or unsupervised volunteers of certain providers that provide direct services to children or youth and to provide applicants a right to appeal a denial of employment or volunteer status based on a finding that they pose a present danger to children or youth.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Criminal Background Checks for the Protection of Children Clarification Temporary Amendment Act of 2005”.

Sec. 2. The Criminal Background Checks for the Protection of Children Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 4-1501.01 *et seq.*), is amended as follows:

(a) Section 205(c)(5) (D.C. Official Code § 4-1501.05(c)(5)) is amended to read as follows:

Note,
§ 4-1504.05

“(5) A signed affirmation stating whether or not the applicant, employee, or volunteer has been convicted of a crime, has pleaded nolo contendere, is on probation before judgment or placement of a case upon a stet docket, or has been found not guilty by reason of insanity, for any sexual offenses or intra-family offenses in the District of Columbia or their equivalent in any other state or territory, or for any of the following felony offenses or their equivalent in another state or territory:

“(A) Murder, attempted murder, manslaughter, or arson;

“(B) Assault, battery, assault and battery, assault with a dangerous weapon, mayhem, or threats to do bodily harm;

“(C) Burglary;

“(D) Robbery;

“(E) Kidnapping;

“(F) Illegal use or possession of a firearm;

“(G) Sexual offenses, including indecent exposure; promoting, procuring, compelling, soliciting, or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism; committing sex acts in public; incest; rape; sexual assault; sexual battery; or sexual abuse; but excluding sodomy between consenting adults;

“(H) Child abuse or cruelty to children; or

“(I) Unlawful distribution or possession of, or possession with intent to distribute, a controlled substance;”.

(b) A new section 207a is added to read as follows:

“Sec. 207a. Assessment of information obtained from criminal background check.

“(a) The information obtained from the criminal background check shall not create a disqualification or presumption against employment or volunteer status of the applicant unless the Mayor determines that the applicant poses a present danger to children or youth. In making this determination, the Mayor shall consider the following factors:

“(1) The specific duties and responsibilities necessarily related to the employment sought;

“(2) The bearing, if any, the criminal offense for which the person was previously convicted will have on his or her fitness or ability to perform one or more such duties or responsibilities;

“(3) The time which has elapsed since the occurrence of the criminal offense;

“(4) The age of the person at the time of the occurrence of the criminal offense;

“(5) The frequency and seriousness of the criminal offense;

“(6) Any information produced by the person, or produced on his or her behalf, in regard to his or her rehabilitation and good conduct since the occurrence of the criminal offense; and

“(7) The public policy that it is beneficial generally for ex-offenders to obtain employment.

“(b) The Mayor and covered child or youth services providers shall not employ or permit to serve as an unsupervised volunteer an applicant who has been convicted of, has pleaded nolo contendere, is on probation before judgment or placement of a case upon a stet docket, or has been found not guilty by reason of insanity for any sexual offenses involving a minor.

“(c) If an application is denied because the applicant presents a present danger to children or youth, the Mayor shall inform the applicant in writing and the applicant may appeal the denial to the Commission on Human Rights within 30 days of the date of the written statement.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Council Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia