



## The Presbytery of Donegal Pennsylvania Mandatory Reporting Laws & Requirements for Churches

In late 2014, Pennsylvania legislature passed a series of laws to further protect the welfare of children residing within its bounds. These laws impact those who work with and interact with children in schools, education centers, daycares, medical practices, sports leagues, scouts and other clubs, churches, and more. Part of the change in the law is directed at the definition of a mandated reporter and steps for identifying and reporting suspected child abuse.

This document is to help explain the changes in the definition of a mandated reporter and the subsequent steps a church must follow to stay compliant with the law, particularly with respect to volunteers. It is focused heavily on defining requirements for background clearances of both staff and volunteers and the subsequent state-mandated reporter training.

Please be aware that this document is focused on changes in the law over the last year and moving forward with compliance in our churches. **In addition** to compliance with the aforementioned changes, churches must also write or update a “Safe Church” policy that comprehensively addresses policies for working with children, in consideration of any requirements dictated by your insurance carrier. Some congregations may also consider proactively developing practices for ministry for situations in which a registered sex offender wishes to become a member of the worshipping community.

If you have any questions, please do not hesitate to contact the Presbytery Office.

### Definition of a Mandated Reporter and Roles

**Mandated Reporter:** According to the Commonwealth of Pennsylvania, the following **adults** are considered mandated reporters and are required to report suspected child abuse if they have reasonable cause to suspect that a child is a victim of child abuse:

- An employee of a child-care service who has direct contact with children in the course of employment.
- A clergy member, minister, or spiritual leader of any regularly established church or other religious organization.

- An individual, paid or unpaid, who, on the basis of the individual’s role as an integral part of a regularly scheduled program, activity, or service, accepts responsibility for a child.
- An individual supervised or managed by a person listed above who has direct contact with children in the course of employment.

The keywords/phrases are:

Term	Definition
“child”	anyone under the age of 18
“routine interaction”	Is the contact with the children regular, ongoing contact that is integral to the person’s volunteer responsibilities?
“individual’s role”	someone occupying a position or performing a function where the supervision of children is part of that job or work, e.g., Youth Director, Sunday School/ Youth Group Volunteers, Nursery or Child Care workers/ volunteers, VBS volunteers, mission trip chaperone, etc.
“regularly scheduled program, activity, or service”	something that is planned by the church and would ordinarily happen over and over again
“accepts responsibility for a child (or children).”	one who provides care, supervision, or guidance of children or has routine interaction with them

The refined definition of a Mandated Reporter now impacts several different people and positions held within the church:

**Clergy/ Employees**

Definition of Clergy: Teaching Elders, Commissioned Ruling Elders, and pastors from other traditions serving in PC(USA) congregations or ministries. All clergy, paid and unpaid, are mandated reporters under the law whether or not they work with children.<sup>1</sup>

Definition of Employee: An Employee is ANY person, 14 years of age or older, paid by the church and meets the definition of a mandated reporter.

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<sup>1</sup> Please note, while the statute exempts clergy from being compelled to disclose information obtained from “any person secretly and in confidence,” the *Book of Order* permits revelation of confidential information when a teaching elder or CRE “reasonably believes there is risk of harm to any person” and mandates disclosure by those in ordered ministries and Certified Christian Educator to ecclesiastical and civil legal authorities when “she or he reasonably believes that there is a risk of future physical harm or abuse” to a child. (G-4.0302)

## **Requirements – to be met by June 30, 2015**

- A. Must require three specific clearances (and show original document)
  - 1. Act 34 Pennsylvania Criminal History Check
  - 2. Act 151 Pennsylvania Child Abuse Clearance
  - 3. Act 114 FBI Criminal History Report (with fingerprints)
- B. Those employees who staff a church preschool or daycare and their supervisors are required to participate in (and show documentation of completion) a Department of Human Services approved training. *For new employees, this must be taken within 90 days of hire.* This training must be offered by a Department of Human Services<sup>2</sup> approved trainer. The training teaches how to recognize child abuse and provides the steps for reporting it.

## **Volunteer**

Definition: Any person over the age of 18 who is unpaid and interacts with children in a regularly scheduled program or event (as per the mandated reporter definition above). To determine if clearances are needed, use the two-pronged test:

- 1. Whether a volunteer is responsible for the welfare of a child? Is the volunteer acting in lieu of or on behalf of a parent? If yes, clearances are needed.
- 2. Whether a volunteer has direct contact with children because they provide care, supervision, guidance, or control of children or have routine interaction with children? If yes, clearances are needed.

## **Requirements:**

- A. Must require three specific clearances (and show original document)
  - 1. Act 34 Pennsylvania Criminal History Check
  - 2. Act 151 Pennsylvania Child Abuse Clearance
  - 3. Act 114 FBI Criminal History Report (with fingerprints)

\* A volunteer who has resided in Pennsylvania for ten or more continuous years may opt-out of the FBI Criminal History Report by submitting a signed and notarized affidavit stating that they are not disqualified from services based upon a conviction of an offense under Pennsylvania Statute 6344.

\*\*Volunteers are not required to undergo the Department of Human Services approved Mandated Reporter training. However, as most volunteers are mandated reporters under the new law, it is highly encouraged that volunteers take the training to help them 1) identify if they are a mandated reporter or a permissive reporter (one who is not required by law to report abuse but chooses to do so) 2) understand the process for reporting in the event of suspected abuse of a child

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<sup>2</sup> The Department of Human Services is the name for what was formerly the Department of Public Welfare

## Youth Volunteer

Definition: Any person ages 14 to 17 who, by the above definition of a volunteer, works with or supervises children in an unpaid capacity.

Requirements: Youth Volunteers under the age of 18 are not required to obtain background clearances. Youth Volunteers may not be left alone with children and require the supervision of an adult who has obtained the appropriate clearances and received the PA-approved mandated reporter training.

## How to Obtain the Required Clearances

All three clearances may be completed online (with the exception of the fingerprinting, which must be done at an assigned location) by the individual for whom the check is being performed:

1. Act 34 Pennsylvania Criminal History Check
2. Act 151 Pennsylvania Child Abuse Clearance
3. Act 114 FBI Criminal History Report: Through the Department of Human Services **OR**  
Through the Department of Education\*

\*Required for those wanting to use this clearance/ fingerprints for both the church and their work/ volunteering in a school district. Schools will not accept copies of the report collected via the Dept. of Human Services. However, the clearances from the Dept. of Ed can be accepted in the church and in other organizations (you will receive a paper copy of the clearance in the mail in addition to the online clearance on file with the Dept. of Ed).

All employees (including all clergy) hired after December 31, 2014, must be in compliance with this law. All employees prior to December 31, 2014, are required to obtain updated clearances (1) within 36 months of the date of the most recent clearance; (2) by December 31, 2015, if the clearance is older than 36 months; (3) by December 31, 2015, if they have not received a clearance because they were employed in the same position and were not required to obtain a clearance under prior law.

All volunteers beginning July 1, 2015, will be required to obtain clearances every 36 months. Volunteers are required to obtain updated clearances as follows: (1) within 36 months of the date of the most recent clearance; (2) by July 1, 2016, if the clearance is older than 36 months; (3) 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.

Clearances must be updated/ renewed every five years. An individual who has obtained his/ her clearances should provide them to the church, and the church should make a copy of the original clearance and keep it on file (returning the original to the individual). A person may use these

clearances for volunteering with multiple agencies in the state of Pennsylvania, provided they are up to date.

Congregations should pay for the clearances of their employees. They are encouraged to consider whether or not they will reimburse (in full or in part) their volunteers for their clearances and plan for how they will accommodate those for whom the approximately \$50 for the clearances poses significant financial hardship. They are also asked to think about how to best assist those who may need access to or assistance with the technology required to obtain the clearances.

Due to the very specific nuances of the Child Protection law for each individual and the clearances required, churches should seriously weigh the risks, benefits, and costs of using an outside source to manage and perform the clearances. Ultimately, copies of the clearances should be filed with the Clerk of Session.

### How to Obtain the Department of Human Services Approved Mandatory Reporter Training

The Mandatory Reporter Training is a 3-hour training aimed at teaching recognition of child abuse and how to report suspected abuse. It is required for those who work in church preschools and daycare centers and their supervisors (such as a Head of Staff). This training should be renewed every five years.

There are two primary ways to obtain the training:

1. Online [www.reportabusepa.pitt.edu](http://www.reportabusepa.pitt.edu)

Clergy, Employees, and Volunteers may access the free training online through the University of Pittsburgh, Department of Social Work at the link above. Individuals may take the training on their own time at their own pace. Upon finishing the course, they should print the Certificate of Completion and provide it to the church, which will copy it and keep it on file with the individual's clearances.

2. Attend an Approved DHS Mandatory Reporter Training In-Person

<http://www.keepkidssafe.pa.gov/training/index.htm>

Those wishing to attend training in person may locate one at the above link, or an organization may hire an approved trainer to lead the course for the group. A Certificate of Completion should be obtained upon finishing the course, and a copy should be kept on file at the church with the individual's clearances.

### Other Information for Church Leaders

- Each mandated reporter must make either an electronic or phone report (electronic is preferred) of suspected child abuse immediately upon reasonable cause to suspect abuse of a child. If the person chooses to make a phone report, an electronic report must also be made

within 48 hours. The knowledge of abuse does not need to be first-hand or absolutely certain but must be “reasonable.” A report should be made by:

- Going to <http://www.compass.state.pa.us/cwis/public/home>
  - Or Calling 1-800-932-0313 (ChildLine)
- The person who has made a report must then alert the proper clergy, employee, or church-related entity that a report has been made. Only one report per church is necessary.
  - Several questions have been asked about conflicts between the new law and the Book of Order. Here, commonwealth law overrides the Book of Order. Specifically, the Book of Order in G-4.0302 requires a volunteer to report to a supervisor or a pastor when child abuse is suspected. In this case, the state law trumps the Book of Order, and a mandated reporter should report directly to ChildLine in the case of suspected abuse and then notify a supervisor and pastor immediately after. Congregations need to develop a plan for building confidence in volunteers in their ability to function as mandated reporters.
  - It is recommended that the Clerk of Session be the individual responsible for keeping these records due to confidentiality and for continuity. These records should be kept indefinitely or until a time frame is negotiated by the state. A church Head of Staff is ultimately responsible for oversight of a congregation’s safe church policy.
  - Under guidance from the Synod of the Trinity, all church child care settings such as preschools and daycare centers must behave in relation to the law as if they are licensed by the Department of Human Services, even if they are not. They must meet all of the requirements stated for churches and educational facilities above.
  - A draft of the Affidavit for those who have lived in Pennsylvania for ten consecutive years or more is attached. This document must be notarized. Churches should consider providing a notary for the convenience of those in the congregation.