

Criminal Check for Volunteers

Ohio Senate Bill 187 Volunteers who may have unsupervised access to children *(Legal Notice)*

The following notification was prepared for congregations in the Diocese of Southern Ohio by the Chancellor of the Diocese:

On April 22, 2001, a new Ohio law became effective. Its purpose is to upgrade the safety of children who are in the custody of a volunteer. This law applies to all volunteers who have "unsupervised access to a child." "Unsupervised access" means:

If indoors, there is only one adult present in the same room as the child;

If outdoors, there is only one adult within 30 yards of the child or has visual contact with the child.

For volunteers (including Sunday school teachers, unpaid choir teachers, camp leaders, day care helpers, trip leaders/drivers), the congregation must decide whether to do a fingerprint/criminal records check. Whether or not this is done, the congregation must inform each volunteer that the volunteer might be required to provide fingerprints and undergo a criminal records check. This requirement of notice applies to both existing and new volunteers. Existing volunteers must be so informed by April 22. The law does not require that the fingerprinting and background checks be done. The belief is that if a volunteer is informed of the possibility, this lets persons withdraw from consideration for a position that would place them in custody of children.

If a congregation does a background check on a volunteer and follows the other procedures of the law, it and its agents will be immune from civil liability if a volunteer later harms a child. The rules apply to volunteers who are with children "on a regular basis." A one-time volunteer need not receive the notice.

If a volunteer is fingerprinted and checked, and if the report reveals that the person was convicted of certain serious offenses, then the congregation must inform each parent/guardian of all children to whom the volunteer has "unsupervised access" about the person's conviction(s) - if that volunteer is left in the position. If the volunteer is not put into or left in that position, no such written notice is needed.

The effect of this is obviously to encourage congregations not to keep convicted persons in a position of unsupervised access to children.

The Governor's Community Service Council will issue in the future "Recommended Best Practices" for organizations to follow, and these will be provided when issued. The Best Practices will include a recommendation that organizations conduct a criminal records check of regular volunteers who will be with children. The background check should be done through the Bureau of Criminal Identification and Investigation (BCII). You may order 100 cards for \$10 from BCII, PO Box 365, London, OH 43140. Orders must be placed by letter using your congregation's official letterhead stationary. You may also obtain cards from your local police station. To use the cards, complete the required information, fingerprint as indicated, sign the waiver on the back, and send with \$15, checks made payable to Treasurer State of Ohio.

If your congregation operates a child-care program other than during hours when parents are at worship in the same building, you should consider whether criminal background checks are required. Under prior Ohio law, criminal records checks are required for certain child-care employees. The law covers a regular day-care center or nursery (outside of worship time), and probably covers Vacation Bible Study and similar extended-hour programs. The law does not specifically define whether an unpaid regular worker is an "employee" for this purpose.

If you have questions about (1) how the new Ohio law affects your congregation or (2) whether a particular child-care activity requires background checks for paid and unpaid child-care workers, contact the diocesan office at 513.421.0311 or 800.582.1712, fax 513.421.0315. If you have a legal issue, you may address it to the Diocesan Chancellor - Joseph J. Dehner, Frost Brown Todd LLC, jdehner@fbtlaw.com (fax 513.651.6981).

Added 4/23/2001:

LISTING OF OFFENSES TO BE SEARCHED DURING A CRIMINAL RECORDS CHECK UNDER § 109.572, OHIO REVISED CODE

Section 109.572, Ohio Revised Code lists offenses to be searched during a criminal background check involving child safety. The list is not exhaustive, because it mentions "substantially equivalent" offenses to the following list of Ohio criminal offenses. If a search is conducted through normal channels, the reporting entity will know what specific sections to check and report. Ohio statutory offenses to be checked include the following:

Murder, voluntary and involuntary manslaughter, felonious assault, aggravated assault, assault, failing to provide for functionally impaired person, aggravated menacing, patient abuse or neglect, kidnapping, abduction, criminal child enticement, rape, sexual battery, corruption of minor, gross sexual imposition, sexual imposition, importuning, voyeurism, public indecency, compelling prostitution, promoting prostitution, procuring, prostitution, disseminating matter harmful to juveniles, pandering obscenity, pandering sexually oriented matter about minors, illegal use of minors in nudity-oriented material or performance, aggravated robbery, robbery, aggravated burglary, burglary, abortion without informed consent, endangering children, contributing to unruliness or delinquency, domestic violence, carrying concealed weapons, having weapons under a disability, improperly discharging firearms into a home or school, corrupting another with drugs, trafficking offenses, illegal manufacture of drugs or cultivating marihuana, funding of drugs or marihuana trafficking, illegal administration of anabolic steroids, improper labeling of hazardous substances, felonious sexual penetration.

[View a sample notice form](#) that you may want to use for new and existing volunteers. (revised 4/23/2001)