

plaintiff pay the defendant's legal expenses. Immunity shall not be accorded to persons acting in bad faith.

(h) Training of prospective reporters

All individuals in the occupations listed in subsection (b)(1) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

(Pub. L. 101-647, title II, § 226, Nov. 29, 1990, 104 Stat. 4806; Pub. L. 114-328, div. A, title V, § 575(b), Dec. 23, 2016, 130 Stat. 2142.)

CODIFICATION

Section is comprised of section 226 of Pub. L. 101-647. Another subsec. (g) of section 226 of Pub. L. 101-647 enacted section 2258 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-328, § 575(b)(1), inserted before period at end “and to the agency or agencies provided for in subsection (e), if applicable”.

Subsecs. (e) to (g). Pub. L. 114-328, § 575(b)(2), (3), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

§ 13032. Repealed. Pub. L. 110-401, title V, § 501(b)(1), Oct. 13, 2008, 122 Stat. 4251

Section, Pub. L. 101-647, title II, § 227, as added Pub. L. 105-314, title VI, § 604(a), Oct. 30, 1998, 112 Stat. 2983; amended Pub. L. 106-113, div. B, § 1000(a)(1) [title I, § 121], Nov. 29, 1999, 113 Stat. 1535, 1501A-23; Pub. L. 108-21, title V, § 508(a), Apr. 30, 2003, 117 Stat. 683; Pub. L. 109-248, title I, § 130, July 27, 2006, 120 Stat. 601, required certain electronic communication service or remote computing service providers to report child pornography violations, established conditions for disclosure of the information reported, and limited civil liability and scope of reports by informants.

SUBCHAPTER V—CHILD CARE WORKER
EMPLOYEE BACKGROUND CHECKS

§ 13041. Requirement for background checks

(a) In general

(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than May 29, 1991. Except as provided in subsection (b)(3), no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term “child care services” means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) Criminal history check

(1) A background check required by subsection (a) shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(3) An agency or facility described in subsection (a)(1) may hire a staff person provisionally prior to the completion of a background check if, at all times prior to receipt of the background check during which children are in the care of the person, the person is within the sight and under the supervision of a staff person with respect to whom a background check has been completed.

(c) Applicable criminal histories

Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2). In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) Employment applications

(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1), shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) Encouragement of voluntary criminal history checks for others who may have contact with children

Federal agencies and facilities are encouraged to submit identifying information for criminal history checks on volunteers working in any of