

to editorial reclassification as subchapter II (§11111 et seq.) of chapter 111 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 13024 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113-4 substituted “\$2,300,000 for each of fiscal years 2014 through 2018.” for “\$2,300,000 for each of fiscal years 2001 through 2005.”

2000—Subsec. (a). Pub. L. 106-386 added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “There are authorized to be appropriated to carry out this subchapter—

“(1) \$750,000 for fiscal year 1996;

“(2) \$1,000,000 for fiscal year 1997;

“(3) \$2,000,000 for fiscal year 1998;

“(4) \$2,000,000 for fiscal year 1999; and

“(5) \$2,300,000 for fiscal year 2000.”

1994—Subsec. (a). Pub. L. 103-322 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “There are authorized to be appropriated to carry out this chapter—

“(1) \$10,000,000 in fiscal year 1991; and

“(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992, 1993, and 1994.”

SUBCHAPTER IV—REPORTING REQUIREMENTS

§ 20341. Child abuse reporting

(a) In general

(1) Covered professionals

A person who, while engaged in a professional capacity or activity described in subsection (b) on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d) and to the agency or agencies provided for in subsection (e), if applicable.

(2) Covered individuals

A covered individual who learns of facts that give reason to suspect that a child has suffered an incident of child abuse, including sexual abuse, shall as soon as possible make a report of the suspected abuse to the agency designated by the Attorney General under subsection (d).

(b) Covered professionals

Persons engaged in the following professions and activities are subject to the requirements of subsection (a)(1):

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, alcohol or drug treatment personnel, and persons performing a healing role or practicing the healing arts.

(2) Psychologists, psychiatrists, and mental health professionals.

(3) Social workers, licensed or unlicensed marriage, family, and individual counselors.

(4) Teachers, teacher’s aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(5) Child care workers and administrators.

(6) Law enforcement personnel, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(7) Foster parents.

(8) Commercial film and photo processors.

(c) Definitions

For the purposes of this section—

(1) the term “child abuse” means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;

(2) the term “physical injury” includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;

(3) the term “mental injury” means harm to a child’s psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;

(4) the term “sexual abuse” includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(5) the term “sexually explicit conduct” means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse;

(6) the term “exploitation” means child pornography or child prostitution;

(7) the term “negligent treatment” means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child;

(8) the term “child abuse” shall not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(9) the term “covered individual” means an adult who—

(A) is authorized, by a national governing body, a member of a national governing body, or an amateur sports organization that participates in interstate or international amateur athletic competition, to

interact with a minor or amateur athlete at an amateur sports organization facility or at any event sanctioned by a national governing body, a member of a national governing body, or such an amateur sports organization; or

(B) is an employee or representative of the United States Center for SafeSport;

(10) the term “event” includes travel, lodging, practice, competition, and health or medical treatment;

(11) the terms “amateur athlete”, “amateur athletic competition”, “amateur sports organization”, “international amateur athletic competition”, and “national governing body” have the meanings given the terms in section 220501(b) of title 36; and

(12) the term “as soon as possible” means within a 24-hour period.

(d) Agency designated to receive report and action to be taken

For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside and for all covered individuals, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a). By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) Reporters and recipient of report involving children and homes of members of the Armed Forces

(1) Recipients of reports

In the case of an incident described in subsection (a) involving a child in the family or home of member of the Armed Forces (regardless of whether the incident occurred on or off a military installation), the report required by subsection (a) shall be made to the appropriate child welfare services agency or agencies of the State in which the child resides. The Attorney General, the Secretary of Defense, and the Secretary of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy) shall jointly, in consultation with the chief executive officers of the States, designate the child welfare service agencies of the States that are appropriate recipients of reports pursuant to this subsection. Any report on an incident pursuant to this subsection is in addition to any other report on the incident pursuant to this section.

(2) Makers of reports

For purposes of the making of reports under this section pursuant to this subsection, the persons engaged in professions and activities

described in subsection (b) shall include members of the Armed Forces who are engaged in such professions and activities for members of the Armed Forces and their dependents.

(f) Reporting form

In every federally operated (or contracted) facility, on all Federal lands, and for all covered individuals, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(g) Immunity for good faith reporting and associated actions

All persons who, acting in good faith, make a report by subsection (a), or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person’s performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the 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, and all covered individuals, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

(i) Rule of construction

Nothing in this section shall be construed to require a victim of child abuse to self-report the abuse.

(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; Pub. L. 115-126, title I, § 101(a), Feb. 14, 2018, 132 Stat. 318; Pub. L. 116-189, § 10, Oct. 30, 2020, 134 Stat. 970.)

Editorial Notes

CODIFICATION

Another subsec. (g) of section 226 of Pub. L. 101-647 enacted section 2258 of Title 18, Crimes and Criminal Procedure, and amended analysis for part I and heading and analysis of chapter 110 of Title 18.

Section was formerly classified to section 13031 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2020—Subsec. (c)(9). Pub. L. 116-189 substituted “adult who—” for “adult who”, inserted subpar. (A) designation before “is authorized”, and added subpar. (B).

2018—Subsec. (a). Pub. L. 115-126, § 101(a)(1), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (b). Pub. L. 115-126, § 101(a)(2), substituted “subsection (a)(1)” for “subsection (a)” in introductory provisions.

Subsec. (c)(9) to (12). Pub. L. 115-126, § 101(a)(3), added pars. (9) to (12).

Subsec. (d). Pub. L. 115-126, §101(a)(4), inserted “and for all covered individuals” after “reside”.

Subsec. (f). Pub. L. 115-126, §101(a)(5), substituted “on all” for “and on all” and inserted “and for all covered individuals,” after “lands.”

Subsec. (h). Pub. L. 115-126, §101(a)(6), inserted “and all covered individuals,” after “facilities.”

Subsec. (i). Pub. L. 115-126, §101(a)(7), added subsec. (i).

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.

§ 20342. Federal immunity

(1) In general

Notwithstanding any other provision of law, any individual making a good faith report to appropriate authorities of a suspected or known instance of child abuse or neglect, or who otherwise, in good faith, provides information or assistance, including medical evaluations or consultations, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect shall not be subject to civil liability or criminal prosecution, under any Federal law, rising from making such report or providing such information or assistance.

(2) Presumption of good faith

In a Federal civil action or criminal prosecution brought against a person based on the person’s reporting a suspected or known instance of child abuse or neglect, or providing information or assistance with respect to such a report, as described in paragraph (1), there shall be a presumption that the person acted in good faith.

(3) Costs

If the defendant prevails in a Federal civil action described in paragraph (2), the court may award costs and reasonable attorney’s fees incurred by the defendant.

(Pub. L. 115-424, §3(b), Jan. 7, 2019, 132 Stat. 5470.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Victims of Child Abuse Act Reauthorization Act of 2018, and not as part of the Victims of Child Abuse Act of 1990 which comprises this chapter.

SUBCHAPTER V—CHILD CARE WORKER EMPLOYEE BACKGROUND CHECKS

§ 20351. 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