

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 abuse 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.

- (g) **CRIMINAL PENALTY FOR FAILURE TO REPORT** – (1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**Sec. 2258. Failure to Report Child Abuse**

'A person who, while engaged in a professional capacity or activity described in subsection (b) of section 226 of the Victims of Child Abuse Act of 1990 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, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.'

**Section 2251.**

- (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.

**Subtitle E – Child Care Worker Employee Background Checks**

**SEC. 231. 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 background check. All existing staff shall receive such checks not later than 6 months after the date of enactment of this chapter, and 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.
- (c) **APPLICABLE CRIMINAL HISTORIES** – Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be grounds 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 the positions listed in subsection (a) and on adult household members in places where child care or foster care services are being provided in a home.