

Act on checking the criminal background of persons working with children
(504/2002)

By decision of Parliament, the following is enacted:

Section 1
Purpose of the Act

The purpose of this Act is to protect the personal integrity of minors and promote their personal security. The Act contains provisions on the procedure for obtaining the criminal record of persons appointed to work with minors.

Section 2
Scope of application

- (1) This Act applies to work performed in employment and civil service relationships which involves, on a permanent basis and to a material degree and in the guardian's absence, raising, teaching or caring for or looking after a minor or other work performed in personal contact with a minor.
- (2) Under the preconditions provided by subsection 1, the Act also applies to:
 - 1) work service carried out by a person in non-military service as referred to in section 1, of the Civilian Service Act (1723/1991);
 - 2) work performed at a workplace by a person being coached for working life as referred to in the Employment Act (275/1987);
 - 3) work performed by a trainee or a person being coached for working life as referred to in the Act on Labour Market Support (1542/1993);
 - 4) work performed by a person during a work tryout at a workplace as referred to in the Employment Services Act (1005/1993);
 - 5) family care provided by a family carer as referred to in section 1, of the Family Carers Act (312/1992);
 - 6) a service provider as referred to in the Act on the supervision of private social services (603/1996); and
 - 7) a service provider as referred to in the Act on private health care (152/1990).
- (3) However, this Act does not apply to work referred to in subsections 1 or 2 which lasts for a maximum of three months within one year. Furthermore, a civilian service centre may not order a person to carry out work covered by

this Act, nor may an employment authority enter into a contract on a trial period at a workplace, coaching for working life, or practical training related to work referred to in this Act, if the person concerned does not want to accept them.

Section 3

Duty of the employer to ask to see an extract from the criminal record

- (1) An employer must ask a person to produce an extract from the criminal record as referred to in section 6 (2) of the Criminal Records Act (770/1993) when the person is employed or appointed for the first time to a position which includes work as referred to in section 2, or when such work is assigned to that person for the first time. For the purposes of this Act, 'employer' also refers to a civilian service centre as referred to in section 8 of the Civilian Service Act and to an employment authority entering into a contract on training, coaching for working life or a work try-out at a workplace.
- (2) If no extract from the criminal record has been produced by the time a municipality or joint municipal board has filled a position, the decision concerning a person's appointment to the position must be conditional and remain unconfirmed until the extract has been produced. A person who has been appointed to a position conditionally must produce an extract from the criminal record within 30 days of being notified of the decision on the appointment or within a longer period granted for particular reasons by the authority filling the position; otherwise the appointment is considered cancelled. The competent authority which made the conditional appointment must decide whether the appointment should be confirmed or cancelled or, in the case of confirmation, a competent subordinate executive authority.
- (3) In cases referred to in section 2, the precondition for appointment to a position governed by the State Civil Servants Act (750/1994) is that the person has provided the authority with an extract from his/her criminal record.

Section 4

Extract from the criminal record of a provider of private social services or private health care services

- (1) If the business of a provider of private social services or private health care services includes provision of services for minors, the State Provincial Office must, prior to granting a permit, require any person who is not in an employment relationship and is required to do work as referred to in section 2 to produce the extract from the criminal record referred to in section 6 (2) of the Criminal Records Act.
- (2) The provisions of subsection 1 also apply to municipalities, which, after receiving the notification prescribed in section 6, of the Act on supervision of private social services, or section 28, subsection 1, of the Children's Daycare Act (36/1973), must ask the person concerned to produce an extract from his/her criminal record without delay.

- (3) The extract referred to in this section must also be requested before a person other than is indicated in the permit application or notification is employed for work as referred to in section 2. The service provider must inform the relevant Provincial State Office or municipality of the matter.

Section 5

Extract from the criminal record of a family carer

If the commission agreement referred to in section 1 of the Family Carers Act includes the provision of family care to minors, the municipality or joint municipal board must ask the person in question to produce the extract from the criminal record referred to in section 6 (2) of the Criminal Records Act.

Section 6

Validity of an extract from the criminal record

For the purpose of establishing a person's criminal record, an extract from the criminal record produced under this Act may not be more than six months old.

Section 7

Note on obtaining an extract from a criminal record and returning the extract

The only notes concerning a criminal record that may be made in a person's personal data file are those indicating that the extract from the criminal record has been provided and indicating the identification codes of the extract. No copies may be made by the employer or any other person provided with the extract under this Act. The extract from the criminal record must be promptly returned to the person presenting it.

Section 8

Confidentiality

Information in the extract from the criminal record may not be disclosed to persons other than those who need to have it in order to make a decision on whether the person in question is assigned to perform work falling within the scope of this Act. Information subject to confidentiality must not be disclosed to a third party even if the person disclosing the information no longer performs the work that he/she was performing on receiving the information.

Section 9

Advertisements for vacancies

Whenever a position involving work as referred to in this Act is advertised as open for application, the advertisement must also state that any person accepted for the position must produce the extract from the criminal record referred to in section 6 (2) of the Criminal Records Act.

Section 10 **Penal provisions**

- (1) Anyone who wilfully or through gross negligence
- 1) fails in his duty as prescribed in sections 3, 4 and 5 to ask to see the extract from the criminal record referred to in section 6 (2) of the Criminal Records Act,
 - 2) fails in his duty as prescribed in section 4, subsection 3, to notify the Provincial State Office or municipality of the employment of a person other than indicated in the permit application or notification for work referred to in the Act, or
 - 3) fails to comply with the duty prescribed in section 7, to return the extract promptly to the person in question,
- shall be sentenced to pay a fine, unless more severe punishment is prescribed elsewhere in the law, for the *offence of failing to obtain a person's criminal record*. The responsibility of an employer or an employer's representative is determined on the grounds laid down in chapter 47, section 7, of the Penal Code (39/1889).
- (2) The punishment for violating confidentiality as prescribed in section 8 shall be imposed under chapter 38, section 1 or 2, of the Penal Code, unless the violation requires punishment under chapter 40, section 5, of the Penal Code, or unless more severe punishment is required under other provisions of the law.
- (3) The punishment for a personal data file offence is prescribed in chapter 38, section 9, of the Penal Code.

Section 11 **Entry into force**

This Act enters into force on January 1, 2003.
Helsinki, June 14, 2002

President of the Republic
Tarja Halonen

Minister of Labour
Tarja Filatov