

AN ACT

To enact sections 109.574, 109.575, 109.576, 109.577, 121.401, and 121.402 of the Revised Code to require the Governor's Community Service Council to adopt a set of "recommended best practices" for organizations and entities that provide specified services to children and that have volunteers who regularly have unsupervised access to children regarding the children and the volunteers, to provide for warnings to such volunteers that they might be subjected to criminal records checks, and to provide for parental notification in certain circumstances regarding the outcome of criminal records checks of such volunteers.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 109.574, 109.575, 109.576, 109.577, 121.401, and 121.402 of the Revised Code be enacted to read as follows:

Sec. 109.574. As used in sections 109.574 to 109.577 of the Revised Code:

(A) "Organization or entity" means a religious, charitable, scientific, educational, athletic, or service institution or organization or local government entity that provides care, treatment, education, training, instruction, supervision, or recreation to children.

(B) "Unsupervised access to a child" means that the person in question has access to a child and that either of the following applies:

(1) No other person eighteen years of age or older is present in the same room with the child.

(2) If outdoors, no other person eighteen years of age or older is within a thirty-yard radius of the child or has visual contact with the child.

Sec. 109.575. At the time of a person's initial application to an organization or entity to be a volunteer in a position in which the person on a regular basis will have unsupervised access to a child, the organization or

entity shall inform the person that, at any time, the person might be required to provide a set of impressions of the person's fingerprints and a criminal records check might be conducted with respect to the person. Not later than thirty days after the effective date of this section, each organization or entity shall notify each current volunteer who is in a position in which the person on a regular basis has unsupervised access to a child that, at any time, the volunteer might be required to provide a set of impressions of the volunteer's fingerprints and a criminal records check might be conducted with respect to the volunteer.

Sec. 109.576. (A) if a person has applied to an organization or entity to be a volunteer in a POSITION IN WHICH the person on a regular basis HAS unsupervised access to a child, if the ORGANIZATION or entity subjects the person to a criminal records check, if the report of the results of the criminal records check indicates that the person has been convicted of or pleaded guilty to any of the offenses described in division (a)(1) of section 109.572 of the Revised Code, and if the ORGANIZATION or entity accepts the person as a volunteer in a POSITION in which the person on a regular basis has unsupervised access to a child, the organization or entity shall notify the parent or guardian of each child for whom it provides services that the volunteer has been convicted of one or more of those offenses but that, nonetheless, the person will be serving the organization or entity in THAT position. the notification required by this division shall be in writing, and THE ORGANIZATION OR ENTITY SHALL send THE NOTICE to the PARENT or guardian on the date the organization or entity commences providing services to the child or on the date the ORGANIZATION or entity decides to accept the person as a volunteer after receiving the report of the results of the criminal records check, whichever is later.

(B) if a person is serving an organization or entity as a volunteer in a POSITION IN WHICH the person on a regular basis HAS unsupervised access to a child, if the ORGANIZATION or entity subjects the person to a criminal records check, if the report of the results of the criminal records check indicates that the person has been convicted of or pleaded guilty to any of the offenses described in division (a)(1) of section 109.572 of the Revised Code, and if the ORGANIZATION or entity retains the person as a volunteer in the same position or in any other POSITION IN WHICH the person on a regular basis HAS unsupervised access to a child, the organization or entity shall notify the parent or guardian of each child for whom it provides services that the volunteer has been convicted of one or more of those offenses but that, nonetheless, the person will be retained by the organization or entity in THAT position. the notification required by this

division shall be in writing, and THE ORGANIZATION OR ENTITY SHALL send THE NOTICE to the parent or guardian on the date the organization or entity commences providing services to the child or on the date the organization or entity decides to retain the person after receiving the report of the results of the criminal records check, whichever is later.

(C) a notification to a parent or guardian of a child that is required by division (A) or (B) of this section shall identify by name the person who is accepted or retained as a VOLUNTEER in a POSITION IN WHICH the person on a regular basis HAS unsupervised access to a child, shall state THE fact that the PERSON has been convicted of or pleaded guilty to one or more of the offenses described in division (a)(1) of section 109.572 of the Revised Code, but shall not identify the offense or offenses in question.

(D) DIVISIONS (A) to (C) of this section apply regarding any criminal records check performed by the bureau of CRIMINAL identification and investigation pursuant to section 109.57, section 109.572, or rules ADOPTED under division (e) of section 109.57 of the Revised Code, any criminal records check performed in any manner by the organization or entity or any of its officers or employees, or any criminal records check performed in any manner by any person upon the request of the ORGANIZATION or entity or any of its officers or employees.

Sec. 109.577. (A) if an organization or entity uses a volunteer in a POSITION IN WHICH the person on a regular basis HAS unsupervised access to a child and if the volunteer has been subjected to a criminal records check performed by the bureau of criminal identification and INVESTIGATION pursuant to section 109.57, section 109.572, or rules adopted under division (e) of section 109.57 of the Revised Code, the ORGANIZATION or entity, and its officials and employees, are immune from civil liability that might otherwise be incurred or imposed for any death or any injury or loss to person or property that is caused by any act or omission of the volunteer and that results from or is related to the volunteer having unsupervised access to a child on a regular basis. This immunity does not apply to a person, organization, or entity that has immunity from civil liability in accordance with section 9.86, 2744.02, or 2744.03 of the Revised Code for the good faith compliance, attempted compliance, or failure to comply.

(B) This section does not create a new cause of action or substantive legal right against a person, organization, or entity and does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law, to which a person, organization, or entity may be entitled under circumstances not covered by

this section.

Sec. 121.401. (a) as used in this section and section 121.402 of the Revised Code, "ORGANIZATION or entity" and "unsupervised access to a child" have the same meanings as in section 109.574 of the Revised Code.

(b) the governor's community service council shall adopt a set of "recommended best practices" for organizations or entities to follow when one or more volunteers of the organization or entity have unsupervised access to one or more children or otherwise interact with one or more children. the "recommended best practices" shall focus on, but shall not be limited to, the issue of the safety of the children and, in addition, the screening and supervision of volunteers. the "recommended best practices" shall include as a recommended best practice that the ORGANIZATION or entity subject to a criminal records check performed by the bureau of criminal IDENTIFICATION and investigation pursuant to section 109.57, Section 109.572, or rules adopted under division (e) of section 109.57 of the Revised Code, all of the following:

(1) all persons who apply to serve as a volunteer in a position in which the person will have unsupervised access to a child on a regular basis.

(2) all volunteers who are in a position in which the person will have unsupervised access to a child on a regular basis and who the organization or entity has not PREVIOUSLY subjected to a criminal records check performed by the bureau of criminal IDENTIFICATION and investigation.

(c) the set of "recommended best practices" required to be adopted by this section are in ADDITION to the EDUCATIONAL program required to be adopted under section 121.402 of the Revised Code.

Sec. 121.402. (A) The governor's community service council shall establish and maintain an educational program that does all of the following:

(1) Makes available to parents and guardians of children notice about the provisions of sections 109.574 to 109.577, section 121.401, and section 121.402 of the Revised Code and information about how to keep children safe when they are under the care, custody, or control of a person other than the parent or guardian;

(2) Makes available to organizations and entities information regarding the best methods of screening and supervising volunteers, how to obtain a criminal records check of a volunteer, confidentiality issues relating to reports of criminal records checks, and record keeping regarding the reports;

(3) Makes available to volunteers information regarding the possibility of being subjected to a criminal records check and displaying appropriate behavior to minors;

(4) Makes available to children advice on personal safety and

information on what action to take if someone takes inappropriate action towards a child.

(B) The program shall begin making the materials described in this section available not later than one year after the effective date of this section.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 187

6

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____