

TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES
MINIMUM STANDARDS REVISION NOTICE



Date: June 1, 2008 **Effective Date:** June 1, 2008
To: All Holders of **Minimum Standard Rules for Registered and Licensed Child-Care Homes** **Stock Code:** P20329-2000
From: Diana Spiser, DFPS Assistant Commissioner for Child-Care Licensing *Use the stock code to order additional replacement page packets.*
Subjects: Incorporation of rules regarding background checks (Appendix IV-V: Background Checks)

In an effort to save time and money and to ensure you have the most up-to-date minimum standards information, you will find attached a revision packet for the Minimum Standard Rules for Registered and Licensed Child-Care Homes.

- The revision packet includes the revised pages and this memo describing the changes.
- Remove the outdated pages in your minimum standard publication and replace them with the attached revised pages, as instructed below.
- Destroy or disregard the outdated pages.
- If you need additional copies of the revision packet you may print copies from our website at www.dfps.state.tx.us or contact your local licensing office.
- If you have questions, please contact your licensing representative or your local licensing office.

The following rule changes were effective June 1, 2008.

Background Checks

Appendix IV, Background Checks, is revised to reflect rule changes that:

- implement new fingerprint-based criminal history checks against the Department of Public Safety (DPS) and Federal Bureau of Investigation (FBI) databases for children in child care, including new fingerprint-based criminal history checks required by amendments to §42.056, Human Resources Code, that were enacted in Senate Bill 758, 80th Legislative Session, and new fingerprint-based criminal history checks required by the federal "Adam Walsh Child Protection and Safety Act of 2006" (the Adam Walsh Act);
- expand the list of criminal convictions that may be used to prevent a person from having access to children in care; and
- clarify terminology and amend certain procedures relating to the background check and risk evaluation processes;

The changes will not only bring Child Care Licensing (CCL) rules in compliance with state and federal law, but will significantly enhance protections for children in child care by identifying certain persons with criminal histories or child abuse or neglect findings that are not identified under the current background check process and ensuring that such persons do not pose a risk to children in care. In addition, these changes, which will necessitate the use of fingerprint-based criminal history checks, will reduce the incidence of "false positive" matches, that sometimes result from name-based criminal history checks, and cause delays in hiring qualified applicants in child-care operations.

§745.601. What words must I know to understand this subchapter?

§745.611. What are background checks?

§745.615. On whom must I request background checks?

(continued)

§745.623. How do I request a background check?

§745.625. When must I submit a request for a background check?

§745.626. How soon after I request a background check on a person can that person provide direct care or have direct access to a child?

§745.627 is repealed, and the language is incorporated into 745.623

§745.629. How do I submit fingerprints for a fingerprint-based criminal history check?

§745.630. If a fingerprint-based criminal history check has already been completed on a person, is a new fingerprint-based criminal history check required for that person every 24 months?

§745.651. What types of criminal convictions may preclude a person from being present in an operation?

§745.663. What if the person with the criminal conviction or central registry finding believes the information obtained is incorrect?

§745.683. Who is responsible for submitting a request for a risk evaluation?

§745.685. How do I submit a request for a risk evaluation?

§745.687. What must I include in my request for a risk evaluation based on criminal history?

§745.693. In what circumstances can someone with a criminal history be present in a child-care operation?

§745.701. May a person arrested or charged with a crime be present in an operation while children are in care?

§745.707. Who makes the final decision on a risk evaluation?

§745.735. What notice will Licensing send a designated perpetrator or a sustained perpetrator working at an operation?

Criminal Convictions

Appendix V, Certain Criminal Offenses in the Texas Penal Code and the Health and Safety Code, is revised to support statutory changes relating to background checks that passed as part of Senate Bill 758, Sections 28-29.

Please make the following changes to the Minimum Standard Rules for Registered and Licensed Child-Care Homes (cover date September 2006):

- Remove Appendix IV, pages 169 through 184.
- Replace with new Appendix IV, pages 169 through 184-A.

- Remove Appendix V, pages 185 through 188.
- Replace with new Appendix V, pages 185 through 188-A.

Attachments