

## **237A.5 Personnel.**

1. All personnel in licensed or registered facilities shall have good health as evidenced by a report following a preemployment physical examination taken within six months prior to beginning employment. The examination shall include communicable disease tests by a licensed physician as defined in section 135C.1 and shall be repeated every three years after initial employment. Controlled medical conditions which would not affect the performance of the employee in the capacity employed shall not prohibit employment.

2. *a.* For the purposes of this section, unless the context otherwise requires:

(1) *"Person subject to a record check"* means a person who is described by any of the following:

(a) The person is being considered for licensure or registration or is registered or licensed under this chapter.

(b) The person is being considered by a child care facility for employment involving direct responsibility for a child or with access to a child when the child is alone or is employed with such responsibilities.

(c) The person will reside or resides in a child care facility.

(d) The person has applied for or receives public funding for providing child care.

(e) The person will reside or resides in a child care home that is not registered under this chapter but that receives public funding for providing child care.

(2) *"Person subject to an evaluation"* means a person subject to a record check whose record indicates that the person has committed a transgression.

(3) *"Transgression"* means the existence of any of the following in a person's record:

(a) Conviction of a crime.

(b) A record of having committed founded child or dependent adult abuse.

(c) Listing in the sex offender registry under chapter 692A.

(d) A record of having committed a public or civil offense.

(e) The department has revoked a child care facility registration or license due to the person's continued or repeated failure to operate the child care facility in compliance with this chapter and rules adopted pursuant to this chapter.

*b.* If an individual person subject to a record check is being considered for employment by a child care facility or child care home, in lieu of requesting a record check to be conducted by the department under paragraph "*c*", the child care facility or child care home may access the single contact repository established pursuant to section 135C.33 as necessary to conduct a criminal and child abuse record check of the individual. A copy of the results of the record check conducted through the single contact repository shall also be provided to the department. If the record check indicates the individual is a person subject to an evaluation, the child care facility or child care home may request that the department perform an evaluation as provided in this subsection. Otherwise, the individual shall not be employed by the child care facility or child care home.

*c.* Unless a record check has already been conducted in accordance with paragraph "*b*", the department shall conduct a criminal and child abuse record check in this state for a person who is subject to a record check and

may conduct such a check in other states. In addition, the department may conduct a dependent adult abuse, sex offender registry, or other public or civil offense record check in this state or in other states for a person who is subject to a record check. If a record check performed pursuant to this paragraph identifies an individual as a person subject to an evaluation, an evaluation shall be performed to determine whether prohibition of the person's involvement with child care is warranted. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

Prior to performing an evaluation, the department shall notify the affected person, licensee, registrant, or child care home applying for or receiving public funding for providing child care, that an evaluation will be conducted to determine whether prohibition of the person's involvement with child care is warranted.

*d.* In an evaluation, the department shall consider the nature and seriousness of the transgression in relation to the position sought or held, the time elapsed since the commission of the transgression, the circumstances under which the transgression was committed, the degree of rehabilitation, the likelihood that the person will commit the transgression again, and the number of transgressions committed by the person involved. In addition to record check information, the department may utilize information from the department's case records in performing the evaluation. The department may permit a person who is evaluated to maintain involvement with child care, if the person complies with the department's conditions and corrective action plan relating to the person's involvement with child care. The department has final authority in determining whether prohibition of the person's involvement with child care is warranted and in developing any conditional requirements and corrective action plan under this paragraph.

*e.* (1) A person subject to an evaluation shall be prohibited from involvement with child care if the person has a record of founded child or dependent adult abuse that was determined to be sexual abuse, the person is listed on the sex offender registry under chapter 692A, or the person has committed any of the following felony-level offenses:

- (a) Child endangerment or neglect or abandonment of a dependent person.
- (b) Domestic abuse.
- (c) A crime against a child including but not limited to sexual exploitation of a minor.
- (d) A forcible felony.

(2) If, within five years prior to the date of application for registration or licensure under this chapter, for employment or residence in a child care facility or child care home, or for receipt of public funding for providing child care, a person subject to an evaluation has been convicted of a controlled substance offense under chapter 124 or has been found to have committed physical abuse, the person shall be prohibited from involvement with child care for a period of five years from the date of conviction or founded abuse. After the five-year prohibition period, the person may submit an application for registration or licensure under this chapter, or to receive public funding for providing child care or may request an evaluation, and the department shall perform an evaluation and, based upon the criteria in paragraph "*d*", shall determine whether prohibition of the person's involvement with child care continues to be warranted.

*f.* If the department determines, through an evaluation of a person's transgression, that the person's prohibition of involvement with child care is warranted, the person shall be prohibited from involvement with child care. The department may identify a period of time after which the person may request that another record check and evaluation be performed. A person who continues involvement with child care in violation of this subsection is subject to penalty under section 237A.19 or injunction under section 237A.20.

*g.* If it has been determined that a child receiving child care from a child care facility or a child care home is the victim of founded child abuse committed by an employee, license or registration holder, child care home

provider, or resident of the child care facility or child care home for which a report is placed in the central registry pursuant to section 232.71D, the administrator shall provide notification at the time of the determination to the parents, guardians, and custodians of children receiving care from the child care facility or child care home. A notification made under this paragraph shall identify the type of abuse but shall not identify the victim or perpetrator or circumstances of the founded abuse.

3. On or after July 1, 1994, a licensee or registrant shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information.

4. On or after July 1, 1994, a licensee or registrant shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?"

5. A person who serves as an unpaid volunteer in a child care facility shall not be required to complete training as a mandatory reporter of child abuse under section 232.69 or under any other requirement.

[C75, 77, 79, 81, § 237A.5]

83 Acts, ch 153, § 5; 85 Acts, ch 184, §1; 87 Acts, ch 153, § 17; 88 Acts, ch 1134, §58; 90 Acts, ch 1221, § 8; 91 Acts, ch 138, §8; 94 Acts, ch 1130, §15; 97 Acts, ch 45, § 1; 98 Acts, ch 1127, §3, 6; 99 Acts, ch 192, §13; 2003 Acts, ch 81, §5, 6; 2006 Acts, ch 1098, §1; 2006 Acts, ch 1184, §108111