

237.8 Personnel.

1. A person shall not be allowed to provide services in a facility if the person has a disease which is transmissible to other persons through required contact in the workplace, which presents a significant risk of infecting other persons, which presents a substantial possibility of harming other persons, or for which no reasonable accommodation can eliminate the risk of infecting other persons.

2. a. (1) If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a licensee under this chapter, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime or has a record of founded child abuse, the department and the licensee for an employee of the licensee shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The department shall conduct criminal and child abuse record checks in this state and may conduct these checks in other states. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

(2) For an individual subject to licensure under this chapter as a foster parent, in addition to the record checks conducted under subparagraph (1), the individual's fingerprints shall be provided to the department of public safety for submission through the state criminal history repository to the United States department of justice, federal bureau of investigation for a national criminal history check. The cost of the criminal history check conducted under this subparagraph is the responsibility of the department of human services.

(3) If the criminal and child abuse record checks conducted in this state under subparagraph (1) for an individual being considered for licensure as a foster parent have been completed and the individual either does not have a record of crime or founded abuse or the department's evaluation of the record has determined that prohibition of the individual's licensure is not warranted, the individual may be provisionally approved for licensure pending the outcome of the fingerprint-based criminal history check conducted pursuant to subparagraph (2).

(4) An individual applying to be a foster parent licensee shall not be granted a license and an evaluation shall not be performed under this subsection if the individual has been convicted of any of the following felony offenses:

- (a) Within the five-year period preceding the application date, a drug-related offense.
- (b) Child endangerment or neglect or abandonment of a dependent person.
- (c) Domestic abuse.
- (d) A crime against a child, including but not limited to sexual exploitation of a minor.
- (e) A forcible felony.

b. Except as otherwise provided in paragraph "a", if the department determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a licensee, or resides in a licensed facility the department shall notify the licensee that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

c. In an evaluation, the department and the licensee for an employee of the licensee shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department may permit a person who is evaluated to be licensed, employed, or to reside, or to continue to be licensed, employed, or to reside in a licensed facility, if the person complies with the department's conditions relating to the person's licensure, employment, or residence, which may include completion of additional training. For an employee of a licensee, these conditional requirements shall be developed with the licensee. The department has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted and in developing any conditional requirements under this paragraph.

d. If the department determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter and shall not be employed by a licensee or reside in a licensed facility.

3. In addition to the record checks required under subsection 2, the department of human services may conduct dependent adult abuse record checks in this state and may conduct these checks in other states, on a random basis. The provisions of subsection 2, relative to an evaluation following a determination that a person has been convicted of a crime or has a record of founded child abuse, shall also apply to a random check conducted under this subsection.

4. On or after July 1, 1994, a licensee 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.

5. On or after July 1, 1994, a licensee 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?

[C81, §237.8]

87 Acts, ch 153, §16; 88 Acts, ch 1134, §57; 89 Acts, ch 283, §27; 90 Acts, ch 1221, §7; 91 Acts, ch 138, §7; 94 Acts, ch 1130, §14; 98 Acts, ch 1190, §29; 2007 Acts, ch 172, §12

Referred to in §232.142