

## CHAPTER 237C

## CHILDREN'S RESIDENTIAL FACILITIES — CERTIFICATION AND INSPECTION

Referred to in §232.69, 282.34

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**237C.1 Definitions.**

As used in [this chapter](#), unless the context otherwise requires:

1. “*Administrator*” means the administrator of that division of the department designated by the director of human services to administer [this chapter](#) or the administrator’s designee.
2. “*Child*” or “*children*” means an individual or individuals under eighteen years of age.
3. “*Children’s residential facility*” means a private facility designed to serve children who have been voluntarily placed for reasons other than an exclusively recreational activity outside of their home by a parent or legal guardian and who are not under the custody or authority of the department of human services, juvenile court, or another governmental agency, that provides twenty-four-hour care, including food, lodging, supervision, education, or other care on a full-time basis by a person other than a relative or guardian of the child, but does not include an entity providing any of the following:
  - a. Care furnished by an individual who receives the child of a personal friend as an occasional and personal guest in the individual’s home, free of charge and not as a business.
  - b. Care furnished by an individual with whom a child has been placed for lawful adoption, unless that adoption is not completed within two years after placement.
  - c. Child care furnished by a child care facility as defined in [section 237A.1](#).
  - d. Care furnished in a hospital licensed under [chapter 135B](#) or care furnished in a health care facility as defined in [section 135C.1](#).
  - e. Care furnished by a juvenile detention home or juvenile shelter care home approved under [section 232.142](#).
  - f. Care furnished by a child foster care facility licensed under [chapter 237](#).
  - g. Care furnished by an institution listed in [section 218.1](#).
  - h. Care furnished by a facility licensed under [chapter 125](#).
  - i. Care furnished by a psychiatric medical institution for children licensed under [chapter 135H](#).
4. “*Department*” means the department of human services.  
[2016 Acts, ch 1114, §1](#)

**237C.2 Purpose.**

It is the policy of this state to provide appropriate protection for children who are separated from the direct personal care of their parents, relatives, or guardians and, therefore, the purpose of [this chapter](#) is to provide for the development, establishment, and enforcement of standards relating to the certification of children’s residential facilities.

[2016 Acts, ch 1114, §2](#)

**237C.3 Certification standards — consultation with other agencies.**

1. The department of human services shall consult with the department of education, the department of inspections and appeals, the department of public health, the state fire marshal, and other agencies as determined by the department of human services to establish certification standards for children’s residential facilities in accordance with [this chapter](#).
2. Standards established by the department under [this chapter](#) shall at a minimum address

the basic health and educational needs of children; protection of children from mistreatment, abuse, and neglect; background and records checks of persons providing care to children in facilities certified under [this chapter](#); the use of seclusion, restraint, or other restrictive interventions; health; safety; emergency; and the physical premises on which care is provided by a children's residential facility. The background check requirements shall be substantially equivalent to those applied under [chapter 237](#) for a child foster care facility provider.

3. Standards established by the department under [this chapter](#) shall not regulate religious education curricula at children's residential facilities.

[2016 Acts, ch 1114, §3](#)

Referred to in [§237C.4](#)

#### **237C.4 Rules and standards — requirements.**

1. Except as otherwise provided in [this section](#), the department shall adopt rules pursuant to [chapter 17A](#) to administer [this chapter](#).

2. Before the administrator issues or reissues a certificate of approval to a children's residential facility under [section 237C.6](#), the facility shall comply with standards adopted by the state fire marshal under [chapter 100](#).

3. Rules governing sanitation, water, and waste disposal standards for children's residential facilities shall be adopted by the department of human services in consultation with the director of public health.

4. Rules governing educational programs and education services provided by children's residential facilities shall be adopted by the state board of education pursuant to [section 282.34](#).

5. In the case of a conflict between rules and standards adopted pursuant to [subsections 2 and 3](#) and local rules and standards, the more stringent requirement applies.

6. Rules adopted under [this section](#) shall not regulate religious education curricula at children's residential facilities.

7. Prior to establishing, proposing, adopting, or modifying a standard or rule under [section 237C.3](#), this section, or [section 282.34](#), the department of human services or the department of education, as applicable, shall, at a minimum, do all of the following:

a. Publish the entire text of the proposed standard, rule, or modification on its internet site.

b. Make every reasonable effort to notify the children's residential facilities in this state of the proposed standard, rule, or modification.

c. Allow and invite any and all persons interested in the proposed standard, rule, or modification to submit written data, facts, opinions, comments, and arguments, which information shall be made publicly available and shall be filed with and maintained by the applicable department for at least five years from the date of submission to the applicable department.

[2016 Acts, ch 1114, §4](#)

Referred to in [§282.34](#)

#### **237C.5 Certificate of approval — certification required.**

A person shall not operate a children's residential facility without a certificate of approval to operate issued by the administrator under [this chapter](#).

[2016 Acts, ch 1114, §5](#)

#### **237C.6 Certificate application and issuance — denial, suspension, or revocation.**

1. A person shall apply for a certificate to operate a children's residential facility by completing and submitting to the administrator an application in a form and format approved by the administrator. The administrator shall issue or reissue a certificate of approval if the administrator determines that the applicant is or upon commencing operation will provide children's residential facility services in compliance with [this chapter](#). A certificate of approval is valid for up to one year from the date of issuance for the period determined by the administrator in accordance with administrative rules providing criteria for making the determination.

2. The certificate of approval shall state on its face the name of the holder of the certificate,

the particular premises for which the certificate is issued, and the number of children who may be cared for by the children's residential facility on the premises at one time under the certificate of occupancy issued by the state fire marshal or the state fire marshal's designee. The certificate of approval shall be posted in a conspicuous place in the children's residential facility.

3. The administrator may deny an application for issuance or reissuance of a certificate of approval or suspend or revoke a certificate of approval if the applicant or certificate holder, as applicable, fails to comply with [this chapter](#) or the rules adopted pursuant to [this chapter](#) or knowingly makes a false statement concerning a material fact or conceals a material fact on the application for the issuance or reissuance of a certificate of approval or in a report regarding operation of the children's residential facility submitted to the administrator. All operations of a children's residential facility shall cease during a period of suspension or revocation. The administrator shall suspend or revoke a certificate of approval of a children's residential facility that fails to comply with [section 282.34](#).

[2016 Acts, ch 1114, §6](#)

Referred to in [§237C.4](#)

#### **237C.7 Restricted use of facility.**

A children's residential facility shall operate only in a building or on premises designated in the certificate of approval.

[2016 Acts, ch 1114, §7](#)

#### **237C.8 Reports and inspections.**

The administrator may require submission of reports by a certificate of approval holder and shall cause at least one annual unannounced inspection of a children's residential facility to assess compliance with applicable requirements and standards. The inspections shall be conducted by the department of inspections and appeals in addition to initial, renewal, and other inspections that result from complaints or self-reported incidents. The department of inspections and appeals and the department of human services may examine records of a children's residential facility and may inquire into matters concerning the children's residential facility and its employees, volunteers, and subcontractors relating to requirements and standards for children's residential facilities under [this chapter](#).

[2016 Acts, ch 1114, §8](#)

#### **237C.9 Injunctive relief — civil action.**

1. A person who establishes, conducts, manages, or operates a children's residential facility without a certificate of approval required pursuant to [this chapter](#), or a children's residential facility with a certificate of approval that is not operating in compliance with rules adopted pursuant to [this chapter](#) or [section 282.34](#), may be restrained by temporary or permanent injunction from providing children's residential facility services or from other involvement with child care. The action may be instituted by the state or a county attorney.

2. The parent or legal guardian of a child who is placed in a children's residential facility, the state, the department of education, or the school district in which the children's residential facility is located, may bring a civil action seeking relief from conduct constituting a violation of [this chapter](#) or [section 282.34](#) or to prevent, restrain, or remedy such violation. A civil action brought by the department of education under [this subsection](#) shall be limited to seeking relief from conduct constituting a violation of [section 282.34](#). Multiple petitioners may join in a single action under [this subsection](#).

3. If successful in obtaining injunctive relief under [this section](#), the petitioner shall be awarded reasonable attorney fees and court costs.

[2016 Acts, ch 1114, §9](#)

#### **237C.10 Notice and hearings — judicial review.**

The procedure governing notice and hearing to deny an application or suspend or revoke a certificate of approval shall be in accordance with rules adopted by the department.

[2016 Acts, ch 1114, §10](#)