

ALABAMA DEPARTMENT OF HUMAN RESOURCES SOCIAL SERVICES DIVISION  
ADMINISTRATIVE CODECHAPTER 660-5-39  
LICENSING: MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES

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660-5-39-.01      Legal Authority.

(1) Licensing Requirement. Any person, group of persons or corporation who or which receives or arranges for care or placement of one or more children unrelated to the operator must apply for a license or approval to operate a child-placing agency.

(2) Legal Base. The Department of Human Resources is given the authority under Alabama Statutes to prescribe and publish Minimum Standards for licensing and for approving all child-placing agencies.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-1 through -27.

**History:** Effective October 16, 1989. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

**660-5-39-.02      Definitions.**

- (1) ADULT. Any person 19 years of age or older.
- (2) CAREGIVER. A person providing care and guidance of children in the home.
- (3) CHARACTER AND SUITABILITY. The person maintains business/professional family and community relationships that are characterized by honesty, fairness, truthfulness, and concern for the well-being of others to the extent that the person is considered suitable to be entrusted with the care, guidance and protection of children.
- (4) CHILD. Any person under 19 years of age.
- (5) CHILD-CARE FACILITY or FACILITIES FOR CHILD CARE. A child-care facility where more than 10 children are received and maintained for the purpose of providing them with care or training or both, but does not include:
  - (a) Any facility for child care which is under the ownership or control, or both, of the state of Alabama, or which is operated or certified or licensed by another agency or department of the state of Alabama;
  - (b) Any juvenile detention home established and operated by the state of Alabama;
  - (c) Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades 1 through 12, or taught in public elementary schools, high school or both elementary and high schools.
- (6) CHILD-PLACING AGENCY. A public or private child-care facility which receives any child or children for the purpose of placing or arranging for the placement of the child or children in foster family homes or other facilities for child care apart from the custody of the child's or children's parents. The term "child-placing agency" includes, but is not limited to, all agencies established and maintained by a municipality or other political subdivision of the State of Alabama to protect, guard, train or care for children outside their own homes, but does not include any circuit court or juvenile court or any duly appointed juvenile probation officer or youth counselor of the court who receives and places children under an order of the court.
- (7) COMMISSIONER. The Commissioner of the State Department of Human Resources.

(8) DEPARTMENT. The Department of Human Resources of the State of Alabama.

(9) FOSTER FAMILY HOME. A child-care facility in a residence of a family where the family receives a child or children, unrelated to said family, for the purpose of providing family care and training on a full-time basis. The types of foster family homes are defined as follows:

(a) BOARDING HOME. A foster family home wherein the foster family receives a child or children and receives payment for their care; provided, however, that the number of children so received shall not exceed six, unless said children are of common parentage.

(b) FREE HOME. A foster home which does not receive payment for the care of a child or children and which may or may not receive the child or children for the purpose of adoption.

(10) GROUP HOME. A child-care facility where at least seven but not more than 10 children are received and maintained for the purpose of providing them with care or training or both.

(11) LICENSEE. An person, group of persons, or corporation, to whom a licensee, approval or permit is issued.

(12) RELATED. Any of the following relationships by blood, marriage, or adoption: parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, half-brother, half-sister, uncle or aunt, and their spouses.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-1 through -27.

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### **660-5-39-.03      Administration.**

(1) Board of Directors. Where a board exists, the board shall perform the following functions:

(a) The Board and the Department.

1. The board shall consult with the Department prior to establishing a new child-placing agency, changing the purpose, goals and function of the basic program or extending services into additional program or geographic areas.

2. The board shall notify the Department when there is a change of the executive and/or chief officer of the board.

3. The board shall provide financial information to the Department.

(b) Board Responsibilities.

1. The board shall articulate the purpose, goal and function of the child-placing agency.

2. The board shall establish written by-laws governing the organization, duties and operation of the board.

3. The board shall establish written operating policies concerning organizational structure, personnel practices, and policies of serving children and their families.

4. The board shall provide a plan for regular review and updating of goals, policies, purpose and procedures of the child-placing agency.

5. The board shall acquaint its members with specific requirements of Minimum Standards, and familiarize itself with, and promote, progressive philosophies of child care, and shall seek constantly to provide a professionally sound program for children.

6. The board shall employ a qualified executive and delegate to him/her the responsibility for administration of the child-placing agency.

(c) The Board and Financing.

1. The board shall be responsible for providing operating and capital funds. Financial policies and practices shall be in accordance with sound budgeting, disbursement and audit procedures.

2. The board shall provide evidence that sufficient funds are available to equal twenty-five percent (25%) of the projected operating budget for the first year of operation and annually thereafter.

(i) If the agency charges a fee for adoption services, the executive board shall establish a fee policy and publish it in the agency's operating policy. Such information shall be provided to individuals and families who are considering using the agency's services.

(ii) The board shall assure that voluntary contributions are not accepted nor solicited from adoptive parents during the placement process and prior to the final order of adoption.

3. The board shall approve the annual budget and revisions, if any, to the annual budget in advance of the applicable fiscal period.

4. The board shall provide for proper bonding of board officers and agency employees who handle operating or capital funds.

5. The board shall cause to be conducted an annual or biennial audit of the financial affairs and transactions of the licensed provider by a certified public accountant not on the staff of the child-placing agency nor a member of the board and to make an annual or biennial report of the audit to the State Department of Human Resources upon completion of the report.

6. The board shall provide a copy of the audit to the Department that the chief officer of the board certifies has been presented to the board as a whole. Child-placing agencies operated by a governmental agency shall provide a copy of the annual report of the appropriate fiscal examining authority.

(2) The Executive in the Absence of a Board of Directors. The executive in charge of administration, where a Board of Directors does not exist, shall perform the following functions:

(a) The Executive and the Department.

1. The executive shall consult with the Department prior to establishing a new child-placing agency, changing the purpose, goals and function of the basic program or extending services into additional program or geographic areas.

2. The executive or the person assuming executive responsibilities shall notify the Department in advance when there is a change of the executive.

3. The executive shall provide financial information to the Department.

(b) Executive Responsibilities.

1. The executive shall articulate the purpose, goal and function of the institution.

2. The executive shall establish written operating policies concerning organizational structure, personnel practices, policies of intake, care, services and discharge of children.

3. The executive shall provide a plan for regular review and updating of goals, policy, purpose, and procedures of the child-placing agency.

(c) The Executive and Financing.

1. The executive shall be responsible for providing operating and capital funds. Financial policies and practices shall be in accordance with sound budgeting, disbursement and audit procedures.

2. The executive shall provide evidence that sufficient funds are on hand to equal twenty-five percent (25%) of the projected operating budget for the first year of operation and annually thereafter.

(i) If the agency charges a fee, the executive shall establish a fee policy and publish it in the agency's operating policy. Such information shall be provided to individuals and families who are considering using the agency's services.

(ii) The executive shall assure that voluntary contributions are not accepted nor solicited from adoptive parents during the placement process and prior to the final order of adoption.

3. The executive shall prepare the annual budget in advance of the applicable fiscal period.

4. The executive shall provide for proper bonding of agency employees who handle operating or capital funds of the child-placing agency.

5. The executive shall provide for an opinion audit on an annual basis by a certified public accountant not on staff of the child-placing agency. Such audit shall review the agency's operations to determine if the agency's accounting policies and practices are consistent with standard accounting principles.

6. The executive shall provide a copy of the audit to the Department. Child-placing agencies operated by a governmental agency shall provide a copy of the annual report of the appropriate fiscal examining authority.

(3) Administrative Regulations.

(a) A child-placing agency which provides a full range of services, including, but not limited to, adoption, foster family homes, counseling services, or financial aid, shall maintain an office with a resident executive and staff within the state of Alabama.

1. An out-of-state child-placing agency shall adhere to all applicable terms of the Interstate Compact on the Placement of Children (ICPC).

2. An out-of-state agency placing a child in Alabama, shall have an Alabama licensed child placing agency or private independent practitioner to do the adoption home study, provide post-placement supervision and make reports to the Court.

(b) The child-placing agency shall have a manual of operating policies and procedures regarding its services. The written policies and procedures shall include (where applicable), but need not be limited to, regulations pertaining to:

1. Services to unmarried parents;
2. Procedures for termination of parental rights;
3. Adoption applications and adoption procedures;
4. Fees for services, including fee for counseling during pregnancy period, fees for adoptive applicants, and fees for record research for adult adoptees if such fees are charged by the agency;
5. Foster Family Home applications and approval procedures;
6. Procedures for obtaining temporary custody;
7. Foster care: medical and dental care, allowances, visitations, boarding foster family home payments, etc.; and
8. Interstate and intercountry placement of children.
9. Procedures for granting an exception which will allow for the approval of an application notwithstanding the fact that a household member has a criminal conviction as set out in Rule 660-5-39-.07 (4) (a)1.

(a) Each social work supervisor and each social worker shall be provided with a copy of the manual of operating policies and procedures and a copy of said manual shall be made available to the Department.

(b) Written personnel practices and policies developed by the board (or in the absence of a board, by the executive), shall be on file in the child-placing agency and with the Department. A copy of personnel practices and policies shall be provided to each employee.

(c) Administrative files shall include, but are not limited to, the following:

1. Job description for all positions, which shall be reviewed annually by the board and the executive;
2. Policies regulating salaries, fringe benefits, working hours, sick leave, vacations, holidays, retirement and terminations; and

3. A file shall be established for the executive, for each employee and for each volunteer who individually has direct contact with children. The files shall include at least the following:

(i) The application for employment;

(ii) Information regarding the character and suitability of the person to work with children inclusive of:

(I) Recording of impressions gained through interviews with the individual to be employed, particularly his/her attitudes regarding child care;

(II) A written record shall be made concerning any oral reference contacts and such record shall be filed in the applicant/employee record.

(III) Reference contacts: statements from three unrelated references, including at least one previous employer, if previously employed. A written record shall be made concerning any oral reference contact and such record shall be filed in the applicant/employee's record.

(iii) Medical Records Requirements.

(I) Medical examination reports are required, (which shall be kept apart from general personnel files) as a separate, confidential medical record, available only under limited conditions specified under ADA/Section 504. All staff shall have verification of a medical examination as specified below.



(II) Complete an initial physical examination performed by a licensed practicing medical doctor, a physician's assistant (as 34-24-290(2), Code of Ala. 1975) or certified family nurse practitioner within six months prior to an employee starting employment OR within thirty (30) days of employment. A record of the examination shall be on file with the Department or licensed child-placing agency. A DHR-2092, Medical Report for Out of Home Care Provider for Children revised 05/01 (see copy in the Appendix), shall be completed, including the tests specified, and a copy placed in the provider's file.

(III) Every two years from the initial examination (earlier if concerns regarding the mental, physical or emotional health of the employee arise) each employee shall have:

I. A complete physical examination as specified in (I) above, excluding any test not required as often as two years.

II. A statement from a licensed practicing medical doctor, a physician's assistant (as defined in Section 34-24-290(2), Code of Ala. 1975) or certified family nurse practitioner which attests to the employee's freedom from contagious and infectious diseases and his/her physical fitness to care for children or to perform services in a child placing agency.

III. Seek appropriate professional consultation and treatment, if prescribed, when there is indication of a physical, emotional, or mental condition that could be detrimental to the children's care. Said person shall not give care to children until the condition is corrected to the satisfaction of the examining licensed practicing physician and the approving agency.

IV. A record of such examination(s) or physician's statement shall be on file at the child-placing agency as a separate confidential medical record.

(iv) Annual evaluations; and

(v) Any report of misconduct or dereliction of duty shall be handled in accordance with the agency's personnel policies and practices, and a full report of the circumstances, the inquiry procedures followed, and the disposition made shall be recorded. Any report of violation of child-placement laws in Alabama or other states shall be investigated by the Department.

(d) All employees of the child-placing agency shall meet the specific qualifications for their particular jobs, as stated in job description.

(e) All employees must complete a Criminal History Check and it must have been submitted to the ABI and FBI and clearance given, in the form of a suitability letter. If a previous criminal history is older than November 2000 a new criminal history check shall be required before a suitability letter will be issued. **(See section on Character and Suitability)**

(f) All employees must be cleared through the State Central Registry for Child Abuse/Neglect. **(See section on Character and Suitability)**

(g) Any staff member shall report to the County Department and to the Family and Children's Services Partnership any knowledge or suspicion of harm or threatened harm to a child's health or welfare through non-accidental physical or mental injury, sexual abuse or attempted sexual abuse; negligent treatment or maltreatment of a child, including failure to provide adequate food, medical treatment, clothing or shelter. Such reports shall be made immediately by telephone or direct oral communication followed by a written report as required under penalty by §§ 26-14-1 through 26-14-13, Code of Ala. 1975. The written report shall be made on DHR-DFC-1593, Report of Suspected Case of Child Abuse/Neglect.

(h) The child-placing agency shall submit any reports regarding the care of children or the operation of the agency as required. The Monthly Report of Children Under Care or Supervision (BFC-611) shall be submitted to the Department no later than the fifth day of the month following the month for which the report is made.

(i) The child-placing agency shall submit to the Department any other reports regarding the care of children or the operation of the facility.

(4) Administrative Staff.

(a) The Executive.

1. The executive shall have a master's degree in the field of social work, psychology, education, administration, or a related field, plus five years experience in family and children's services with progressively responsible duties in supervision and/or administration.

2. The duties of the executive shall include, but are not limited to, the following:

(i) Direct and evaluate a program of child-placing which is child and family-centered, which is within the limits of function and policy established by the board, or by the executive where there is no board, and which is based upon sound professional concepts;

(ii) Organize the work of the agency and delegate responsibility to various staff members, as appropriate;

(iii) Make regular reports to the board, where applicable, on all aspects of the operation of the agency, and its program;

(iv) Handle expenditures according to allocations in the budget and develop the annual budget in conjunction with the board, where applicable;

(v) Develop a plan for orientation, training, and development of staff;

(vi) Appoint, evaluate and terminate staff;

(vii) Make provision for continuity of administrative authority in his/her own absence;

(viii) Develop a program of public relations, including interpretation to the community;

(ix) Notify the State Department in the event of an incident which is considered to jeopardize the life of a child, staff member or other person; and

(x) Make regular reports to the Department in accordance with requirements by the Department.

(b) Social Workers.

(1) There shall be a supervisor of social services, in addition to the executive, if there are more than the equivalent of two full-time social workers (full-time as defined according to the agency's personnel policies) or if the executive director does not have a master's degree

in social work from a school of social work accredited by the Council on Social Work Education plus five years' experience in child placing.

(2) Social workers shall be licensed and shall practice social work pursuant to Code of Ala. 1975, §§34-30-1 through 34-30-58.

(i) A supervisor of social services shall be licensed as a graduate social worker or a certified social worker, and shall have a minimum of two years full-time paid employment in family and children's services, including experience in child placing.

(ii) A social worker shall have at least the following qualifications:

(I) A license as a graduate social worker;

(II) A license as a certified social worker; or

(III) A license as a bachelor social worker with continuing supervision from a person so licensed as specified in (I) or (II) above.

(c) Clerical Staff.

1. Staff shall be selected on the basis of personal and technical qualifications and job descriptions.

2. A sufficient number of managerial and support workers shall be employed to carry out business, secretarial and clerical duties, such as maintenance of records, correspondence, fiscal matters, and bookkeeping so that the service of the agency can be carried out.

(d) Other Professional Staff. All other professional staff employed by the child-placing agency shall be qualified and/or licensed in their professional field.

(e) Ancillary Staff. When the child-placing agency provides the professional services offered by physicians, dentists, psychiatrists, psychologists, teachers and other specialists on a fee basis, these specialists shall be qualified and/or licensed in their respective fields.

(f) Volunteers.

1. If the child-placing agency uses volunteers, it shall:

(i) Develop a plan for the orientation, training and use;

(ii) Develop job descriptions and specify responsibilities of volunteers; and

(iii) Designate a staff member to supervise and evaluate volunteers;

2. Volunteers shall not be expected to assume the total responsibilities of any paid staff member.

3. Records shall be kept on the hours and activities of volunteers.

(5) Staff Development. Any staff that will have direct contact with children.

(a) Orientation

1. New staff shall receive orientation within 30 days of employment. Orientation will cover:

(i) Agency philosophy, policies and procedures

(ii) Generally accepted principles of child care and behavior management practices

(iii) Overview of the Child Care Institution, Group Homes and Child-Placing Agencies

(iv) Confidentiality issues

2. The documentation shall include the name of the person responsible for conducting the orientation and the date and content of the orientation. Completion of orientation shall be documented in the employee's file.

(b) New Hire Training

1. Training consisting of a minimum of thirty (30) hours of actual training time will be given within the first one hundred eighty (180) days of hire.

2. The training shall consist of the following components:

(i) Child Development

(ii) Behavior Management

(iii) The Process of Grief and Loss

(iv) The Dynamics of Attachment and Separation

(v) The Value of Families

- (vi) \*Individualized Services Plan
  - (vii) Identifying the Strengths and needs of Families and Children
  - (viii) Behavior as an Expression of Underlying Needs
  - (ix) The Value of Partnerships
  - (x) How Children Enter the Foster Care System
  - (xi) Family Implications among Agency Personnel
  - (xii) \*Overview of the R.C. Consent Decree
  - (xiii) Understanding and Valuing Cultural Differences
- \*Exemptions of these components allowed for agencies not accepting DHR Children into placement.

(c) Continuing Education

1. After the first anniversary of employment, a program of in-service training will provide staff with a minimum of fifteen (15) hours in-service training annually. Participation at conferences and workshops may be included as part of the 15 hours as documented by attendance certificates.

2. Training may include, but is not limited to:

- (i) Child Safety Issues
- (ii) Crisis Intervention/Engaging Families
- (iii) The Impact of the Media on Children\*
- (iv) Effects of Multiple Placements
- (v) Cultural Sensitivity and Responsive Services
- (vi) Significance of Birth Families
- (vii) Substance Abuse
- (viii) Gang Activities
- (ix) Universal Precautions and Infection Control

**Note: \* In cases that DHR holds custody of the child, the social worker with the CPA will contact the DHR social worker to inquire if media involvement may be appropriate.**

**Author:** Jodie Nata

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**660-5-39-.04      Character And Suitability.**

(1) Applicants/licenseses (see II Legal Authority, Section B, Definitions, Page 6), household members, caregivers (see II Legal Authority, Section B, Definitions, Page 6), substitutes, domestic workers, volunteers, or other persons who have contact with the children in care or unsupervised access to the children in care shall be of good moral character. Information regarding the character and suitability of applicants for a license shall be reviewed by the Department at the time of the initial application for a license. Subsequent character and suitability reviews shall be conducted at the discretion of the Department. Evidence that an applicant/licensee, caregiver, substitute, domestic worker, volunteer, or other person who has contact with the children or unsupervised access to the children, is of unsuitable character may be the basis for the denial of an initial application, denial of an application for renewal of a license, suspension of a license/permit, or revocation of a license or six-month permit.

(2) The applicant/licensee shall conduct a character and suitability review, as set forth below, of substitutes, caregivers, domestic workers, volunteers, and other persons have contact with the children or unsupervised access to the children.

(3) Factors to be considered in determining character and suitability shall include but need not be limited to:

(a) References.

1. At the time of initial application, each applicant for a license shall provide the Department with the names, addresses, and telephone numbers of at least three persons who are unrelated to the applicant or household member by blood, marriage, or adoption. These persons shall be contacted by the Department to determine the applicant character, community reputation, work history, and suitability to care for children or to have contact with children. The Department may, at its discretion, contact additional sources that can attest to the applicant/character and suitability to care for children or to have contact with children.

2. The applicant/licensee shall obtain at least three written references for each current and prospective caregiver, substitute, domestic worker, volunteer, or other person who has contact with the children or unsupervised access to the children. References shall attest to the person's character, community reputation, work history, suitability to care for children or to have contact with the children. Reference contacts shall not be related to the person by blood, marriage, or adoption. Written references shall be kept on file at the child placing agency office.)

(b) Clearance of State Central Registry on Child Abuse/Neglect.

1. At the time of initial application, a completed REQUEST FOR CLEARANCE OF STATE CENTRAL REGISTRY ON CHILD ABUSE/NEGLECT (DHR-DFC-1598) shall be submitted by the applicant. Results shall be kept in the Department's files.

2. The applicant shall obtain a completed REQUEST FOR CLEARANCE OF STATE CENTRAL REGISTRY ON CHILD ABUSE/NEGLECT (DHR-DFC-1598) for each caregiver, substitute, volunteer, domestic worker, and any other person who has contact with the children or unsupervised access to the children. Completed forms shall be submitted to the Department. Results shall be kept on file in the approving agency's office.

3. A subsequent REQUEST FOR CLEARANCE OF STATE CENTRAL REGISTRY ON CHILD ABUSE/NEGLECT (DHR-DFC-1598) may be requested by the Department at any time.

(c) Criminal History Background Information Checks.

1. In accordance with Alabama law, (Act 2000-775, effective November 1, 2000, see Appendix M, page 118), for a copy of the law), the criminal history of each applicant for a license, each licensee, substitute, caregiver, volunteer, and domestic worker, as well as any other person who has contact with the children or unsupervised access to the children shall be reviewed.

2. Each licensee, substitute, caregiver, volunteer, domestic worker, as well as any other person who has contact with the children or unsupervised access to the children, licensed, employed, or performing volunteer services prior to November 1, 2000, shall submit, to the Alabama Bureau of Investigation, Department of Public Safety, as instructed by the Department, a request for a criminal history background information check accompanied by the following:



(i) Fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.

(ii) Written consent from the licensee, substitute, caregiver, volunteer, domestic worker, as well as any other person who has contact with the children or unsupervised access to the children, for the release of the criminal history background information to the Department of Human Resources. A copy shall be submitted to the Department of Human Resources Criminal History Checks Unit. A copy shall be kept on file in the approving agency's office. The required fee, unless fee is to be paid by the Department.

(iii) Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a driver's license, non-driver's identification, or program participation card. A copy of the identification verification shall be kept on file in the approving agency's office.

3. At the time of initial application, an applicant for a license and shall submit, to the Alabama Bureau of Investigation, Department of Public Safety, a request for a criminal history background information check accompanied by the following:

(i) MANDATORY CRIMINAL HISTORY CHECK NOTICE: (See Appendix B., page 75, for copy of form.) Alabama law requires that a criminal history background information check be conducted on all persons who hold a license or work in a Department of Human Resources licensed child care or adult care facility, a foster or adoptive home approved by the Department of Human Resources, or a licensed child placing agency, including all officers and agents of the entity. You are required to provide full, complete, and accurate information on your criminal conviction history upon application for a license or employment (whether paid or unpaid, including volunteers). This information shall be used to determine your suitability to provide care to children, the elderly, or disabled individuals. Unless a criminal history background information check report and suitability determination have previously been obtained, you must complete a written request and consent for a criminal history background information check with fingerprints at the time of application for employment. Refusal to complete these documents or providing false information shall result in refusal of employment, approval, or licensure. The term

conviction includes a determination of guilt by a trial, by a plea of guilty, or a plea of nolo contendere. You are required to notify your employer, licensing agency, or entity where you are performing volunteer work of any criminal conviction occurring subsequent to the date of completion of this notice. Any individual determined to have submitted false information shall be referred to the district attorney or law enforcement for investigation and possible prosecution. An individual who intentionally falsifies or provides any misleading information on the statement is guilty of a Class A misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000) and imprisonment for not more than one year. Convictions for any crimes listed in Section (4), shall make an individual unsuitable for licensure, employment, or volunteer work.

(ii) The Mandatory Criminal History Check Notice shall include the following criminal history statement:

(I) Have you ever had a suitability determination made by the Department of Human Resources in connection with a previous criminal history information background check? Yes ( ) No ( ).

(II) Have you ever been convicted of a crime? Yes ( ) No ( ). If yes, state the date, crime, location, punishment imposed, and whether the victim was a child or an elderly or disabled individual.

(iii) A signed statement, which includes the mandatory statement above, indicating whether he or she has ever been convicted of a crime, and if so, fully disclosing all convictions. The mandatory statement shall be submitted to the Department of Human Resources Criminal History Checks Unit. A copy shall be kept on file in the approving agency's office.

(iv) Two complete sets of fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.

(v) Written consent from the applicant for the release of the criminal history background information to the Department of Human Resources. A copy shall be submitted to the Department of Human Resources Criminal History Checks Unit. A copy shall be kept on file in the approving agency's office.

(vi) The required fee.

(vii) Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a driver's license, non-driver's identification, or program participation card. A copy of the identification verification shall be kept on file in the approving agency's office.

4. Each substitute, caregiver, and domestic worker, volunteer, and any other person who has contact with the children or unsupervised access to the children, initially employed, or performing volunteer services on or after November 1, 2000, shall submit, to the Alabama Bureau of Investigation Department of Public Safety, a request for a criminal history background information check accompanied by the following:

(i) Prior to or on the first day of employment, a statement shall be signed, which includes the mandatory statement above, indicating whether he or she has ever been convicted of a crime, and if so, fully disclosing all convictions. The mandatory statement shall be submitted to the Department of Human Resources Criminal History Checks Unit. A copy shall be kept on file in the approving agency's office.

(ii) A substitute, caregiver, volunteer, domestic worker and any other person who has contact with the children or unsupervised access to the children, who fails or refuses to sign the required Mandatory Criminal History Check Notice and complete the questions shall not be employed, or allowed to perform volunteer services.

(iii) If an licensee/applicant fails or refuses to sign the required Mandatory Criminal History Check Notice and complete the questions, the Department shall revoke or refuse to renew the license.

(iv) Upon receipt of a signed Mandatory Criminal History Check Notice, revealing no disqualifying convictions, a substitute, caregiver, volunteer, domestic worker and any other person who has contact with the children or unsupervised access to the children, may be employed, perform volunteer services provisionally at the discretion of the licensee, pending receipt of a suitability determination from the Department.

(v) Within five business days of moving into the home, being employed, or beginning volunteer service the following shall be submitted to the Alabama Bureau of Investigation, Department of Public Safety:

(I) Fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.

(II) Written consent from each, substitute, caregiver, volunteer, domestic worker, or any other person who has contact with the children or unsupervised access to the children, for the release of the criminal history background information to the Department of Human Resources. A copy shall be submitted to the Department of Human Resources Criminal History Checks Unit. A copy shall be kept on file in the approving agency's office.

(III) The required fee.

(IV) Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a driver's license, non-driver's identification, or program participation card. A copy of the identification verification shall be kept on file in the approving agency's office.

(vi) Fingerprints may be collected through the use of inkpads and fingerprint cards or through the use of ink-less "live scan" fingerprinting devices to collect and print fingerprints on cards or transmits the fingerprints electronically to the Department of Public Safety. When no copy of the fingerprint card is available because of the electronic transmission of live scan fingerprints, written documentation from the individual or law enforcement agency that the fingerprints have been collected and transmitted shall be maintained on file in the approving agency's office, and sent to the Department's Criminal History Check Unit.

(vii) Fingerprints are not required when a disability prevents an individual from being fingerprinted. Disabilities preventing fingerprinting include the loss of both hands, severe scarring of all fingers, closed paralytic hands, and similar disabilities. In situations involving a covered disability, a completed Criminal History Information Consent and Release form is required. The Department of Public

Safety shall conduct a criminal history background information check by name and Social Security number in such cases. Documentation or verification of that the disability prevents fingerprinting shall be obtained from law enforcement or from an individual trained in fingerprinting techniques and shall be submitted to the Department of Public Safety and the Department of Human Resources.

5. Criminal history background information checks shall be performed by the Alabama Department of Public Safety. National criminal history background checks shall be requested by the Department of Public Safety from the Federal Bureau of Investigation. Criminal history background reports shall be sent to the Department of Human Resources.

6. The Department of Human Resources shall review the report and determine whether the applicant or other person meets the suitability requirement based on the criminal history background report. The Department shall issue a suitability determination and maintain a confidential file on individuals for whom a criminal history background information report or report updates have been received.

7. Upon receipt of a determination of unsuitability, the affected individual shall be terminated from employment or volunteer work.

8. The Department shall suspend or revoke the license or deny the initial application or the application for renewal if the applicant/licensee, receives a determination of unsuitable character.

9. The Department shall send a copy of the letter determining suitability status to the individual affected and to the child-placing agency. The individual has thirty (30) days from the date of notification to request in writing a reversal of the determination of suitability if the disqualifying conviction is not for a sex crime, or a crime against a child, an elderly individual, or an individual with disabilities. The affected individual shall show clear and convincing evidence of successful rehabilitation.

10. The Department shall send a copy of the report received from the Department of Public Safety to the affected individual. The affected individual shall have the opportunity to challenge the accuracy of the report.

11. If a suitability determination letter is received by the licensee from the Department's Criminal History Check

Unit stating an individual is suitable for employment based on the absence of any disqualifying convictions, the licensee shall make his or her own determination regarding employment or volunteer work. No right to employment is created by the issuance of a letter stating an individual is suitable for employment.

12. Only one criminal history background check shall be required per individual. If the individual certifies on the Mandatory Criminal History Check Notice statement that a criminal history check has been performed by the Department or by the Department of Education, the Department will issue a determination of suitability based on the criminal history report received. If the previous report cannot be obtained, a new criminal history check shall be required.

13. The licensee shall inform the Department of any criminal convictions and current criminal charges involving the licensee, substitutes, caregivers, domestic workers, and other persons who have contact with the children or unsupervised access to the children, which occur after a license/permit is obtained. Such reports shall be made within 24 hours and followed by a written report within five (5) days. (See Section F., 2., Reports to the Department for details.) This information shall be kept on file by the Department.

(d) Evidence of Unsuitable Character.

1. Convictions for any of the following crimes **shall** make an applicant/licensee, caregiver, substitute, domestic worker, volunteer, or any other person unsuitable to hold a license/permit or have contact with the children or unsupervised access to children

(i) Murder, manslaughter, or criminally negligent homicide.

(ii) A sex crime, including the following:

(I) Enticing a child to enter a vehicle, room, house, office, or any other space for immoral purposes, as proscribed by Section 13A-6-69 of the Code of Ala. 1975.

(II) Incest, when the offender is an adult and the victim is a minor, as proscribed by Section 13A-13-3 of the Code of Ala. 1975.

(III) Kidnapping of a minor, except by a parent, in the first or second degree, as proscribed by

Section 13A-6-43 or Section 13A-6-44 of the Code of Ala. 1975.

(IV) Promoting prostitution in the first or second degree, as proscribed by Section 13A-12-111 or Section 13A-12- 112 of the Code of Ala. 1975.

(V) Rape in the first or second degree, as proscribed by Section 13A-6-61 or Section 13A-6-62 of the Code of Ala. 1975.

(VI) Sexual misconduct, as proscribed by Section 13A-6-65 of the Code of Ala. 1975.

(VII) Sexual torture, as proscribed by Section 13A-6-65 of the Code of Ala. 1975.

(VIII) Sexual abuse in the first or second degree, as proscribed by Section 13A-6-66 or Section 13A-6-67 of the Code of Ala. 1975.

(IX) Sodomy in the first or second degree, as proscribed by Section 13A-6-63 or Section 13A-6-64 of the Code of Ala. 1975.

(X) Soliciting a child by computer for the purposes of committing a sexual act and transmittal of obscene material to a child by computer as proscribed by Sections 13A-6-110 and 13A-6-111 of the Code of Ala. 1975.

(XI) Violation of the Alabama Child Pornography Act, as proscribed by Section 13A-12-191, 13A-12-192, 13A-12- 196, or 13A-12-197 of the Code of Ala. 1975.

(XII) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in paragraphs i through xi, inclusive.

(XIII) A crime listed in the Community Notification Act, Chapter 20 of Title 15 of the Code of Ala. 1975.

(iii) A crime that involves the physical or mental injury or maltreatment of a child, the elderly, or an individual with disabilities.

(iv) A crime committed against a child.

(v) A crime involving the sale or distribution of a controlled substance.

(vi) Robbery.

(vii) A crime listed in the federal Adoption and Safe Families Act as prohibiting a person from being unsuitable for employment, volunteer work, or approval, or licensure.

(viii) A violation or attempted violation of an offense committed outside the State of Alabama or under federal law is a sex crime or any other crime listed in this notice if the offense would be a crime listed in this notice in Alabama.

(ix) Reports of adult or child abuse/neglect (with or without criminal convictions), related to crimes listed in ((1)) through ((8)) above, with a final disposition of indicated, in this or any other state.

2. Examples of evidence which **may** make an applicant/ licensee, caregiver, substitute, domestic worker, volunteer, or any other person, unsuitable to hold a license/permit or have contact with the children or unsupervised access to children, include but are not limited to the following:

(i) any felony conviction in this or any other state;

(ii) theft and other financial crimes related to business activities

(iii) misdemeanor convictions in this or any other state;

(iv) operating a motor vehicle while under the influence of or while impaired by the use of intoxicating liquor or drugs;

(v) offenses involving the reckless operation of a motor vehicle at an excessive speed;

(vi) a crime involving the possession of a controlled substance;

(vii) operating a child care facility without a license/ permit/exemption;

(viii) refusal to cease operations of an unlicensed child care facility;

(ix) a history of consistent failure to maintain minimum standards while operating a child care facility;



(x) refusal or failure to cooperate in any Department investigation or inspection;

(xi) making false or misleading statements or reports to the Department;

(xii) past history of the individual regarding his/her truthfulness;

(xiii) the individual's ability to care for children; or

(xiv) reports of adult or child abuse/neglect (with or without criminal convictions), other than those listed in (a)((2)) above, with a final disposition of indicated, in this or any other state.

3. Evidence in item (b)((1)) through ((14)) above, will be evaluated to determine whether or not it constitutes a danger to the children based on the seriousness of the crime, the existence of extenuating circumstances, the propensity to recommit the crime, and evidence of rehabilitation since the crime was committed.

4. An application for a license shall be denied or a license or permit shall be suspended or revoked if the applicant/licensee, substitute, caregiver, domestic worker, volunteer, or any other person who has contact with the children or unsupervised access to the children, is determined to be of unsuitable character to work with children, to have contact with children or to have unsupervised access to children.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, Title 38, Chapter 13, §§1-12

**History:** Effective October 16, 1989. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

#### **660-5-39-.05      Child And Family Services.**

(1) Case Load Assignment. The number of cases for which professional staff are responsible shall not exceed those defined by the R. C. Consent Decree as outlined by the following, unless otherwise defined by policy:

- |                                   |    |
|-----------------------------------|----|
| (a) Traditional foster care cases | 18 |
| (b) Therapeutic foster care cases | 8  |
| (c) Adoptive and Resource cases   | 40 |

(2) Admission Process. Admission services shall include, but are not limited to, the following:

- (a) Obtain and record information which will enable a plan to be developed for the child and his/her family;
- (b) Involvement in planning for the child, the family, relatives or other adults who have meaning to the child; and
- (c) Ascertain the type of service needed to determine if the child-placing agency can appropriately serve the child and his/her family.
- (d) Children who are referred for non-emergency foster home placements shall have at least one overnight visit with the foster family with whom they are to be placed and it will occur prior to admission to the program.

(3) Placement.

(a) At the time of admission, the child care facility shall have one of the following:

1. A signed Placement Agreement (DHR-DFC-824) (for children who are not in the custody of DHR at the time of admission.)

(i) The agreement is to be with one of the following:

(I) Parent of the child;

(II) The person (other than the parent) or agency having legal custody of the child by virtue of a court order (and a copy of the court order granting such custody); or

(III) The agency authorized to provide out-of-home care by virtue of an agreement between the parent and the agency (a copy of the authorization between the agency and the parent shall be included. 2. An Inter-agency Agreement (DHR-DFC-823) (for children who are in the custody of DHR at the time of admission) which includes:

(i) Statement regarding provision of medical, dental, surgical, and hospital services; and participation in recreational, social, and educational;

(ii) A copy of the most recently completed ISP form.

3. A court order granting custody of the child to the child care facility, if appropriate. Neither the

Placement Agreement or the Inter-Agency Agreement are needed if the child care facility is granted custody through a court order.

(b) When a child is to be placed, appropriate representatives of the referring agency, the placing agency, appropriate family members, and, when advisable, the child shall share in the planning. There shall be developed a written case/treatment plan which shall include at least the following:

1. The date the plan is developed.
2. Expected outcome or goal of placement (permanent plan) and overall timeframe for achievement.
3. An assessment that identifies the strengths and needs of the child and family and designates measurable, realistic, achievable and time limited service objectives or goal.
4. Preparation for placement, including pre-placement visits when plan is developed prior to placement.
5. Designation of the actions that each person (i.e. the child, the child's family, the foster family, the child-placing agency and the referring agency) will take to reach the objectives and goals; including timelines for achievement.
6. Visiting plan for child with his/her family and any other persons significant to the child, if appropriate.
7. Written consent for emergency medical or surgical care, necessary vaccinations and immunizations, and routine medical care and treatment.
8. A written plan of the financial responsibility of the parent, guardian, legal custodian, or other responsible person or agency.
9. Review the plan at least every six months. 10. The agency or person legally responsible for the child(ren) shall receive a copy of the written case plan.

(4) Discharge.

(a) The decision as to when discharge is to take place shall be the responsibility of the Treatment /Family Planning (ISP) Team, and shall address the needs of the child and their family. Discharge planning shall be coordinated with the team at the time of the placement of the child(ren). **No child in the custody of the Department of Human Resources shall be discharged without the completion of an ISP.**

(b) The agency/individual having primary planning responsibility shall coordinate the discharge of the child. Unless there is clear and documented evidence that the child is a danger to himself/herself or others, each agency/individual shall inform the other agency/individual at least 30 days in advance of the proposed date of discharge.

(c) A discharge summary and written recommendation for aftercare shall be developed and provided to the person/agency responsible for aftercare.

(d) The agency or person legally responsible for the child(ren) shall receive a copy of the written case plan.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-1 through -27.

**History: New Rule:** Filed October 7, 2002; effective November 11, 2002.

#### **660-5-39-.06      Foster Family Homes.**

(1) A child-placing agency with authority to approve foster homes and to place children in approved foster family boarding homes or foster family free homes shall:

(a) Have a licensed social worker to conduct all approvals and subsequent reapprovals of foster homes.

(b) Approve only foster homes that meet the requirements of the Minimum Standards for Foster Family Homes: Principles, Regulations and Procedures.

(c) Make all placements of children through the approved child-placing agency and with knowledge and consent of the custodial agency.

(d) Notify in writing the local County Department of Human Resources in which the foster family home is located that said home has been approved. The County Department shall also be notified when the home is no longer approved.

(e) The State Department of Human Resources, Family Services Partnership, Office of Foster Care, is to be notified when a DHR employee, State Office or County Office, or DHR Official makes application to become a foster care provider. The homes of DHR Officials or DHR employees **shall not** be approved for use as a foster home provider if there is a possible conflict of interest situation, e.g., personnel that engage in the placement or supervision of foster children, or personnel that regulate the licensing or approval of homes or facilities for the placement of children. The State Department of Human

Resources will provide a written statement regarding whether there is a possible conflict of interest.

(f) A licensed child-placing agency shall not conduct or approve a foster home study on any of its employees or officials, which includes board members, volunteers or anyone else who has direct affiliation with the agency. Arrangements must be made with another licensed child-placing agency or licensed social worker to conduct and approve the study, make a placement, provide post-placement supervision and for reapproval of the home.

(g) Maintain individual foster family home records on each home used by the child-placing agency in accordance with Paragraph I. 4.

(h) Establish a policy that the child's worker will have contact with the child at least every three months and will evaluate and update the case plan/ISP every six months.

(i) Share written evaluations when another agency is working with the family. The child-placing agency shall share written evaluations of the child and his/her situation with the agency working with the family at no greater than six month intervals.

(j) Provide written protocol on the matching of children and foster families and documentation to support placement of children. Placement shall be made only after careful consideration is given as to how well the prospective foster family will meet the child's needs and preferences.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-1 through -27.

**History:** Effective October 16, 1989. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

#### 660-5-39-.07

#### Visiting Homes For Children Living In Licensed Child Care Institutions And Group Homes.

(1) Visiting home means a resource in a residence of a family where the family receives a child or children, unrelated to said family, for the purpose of providing family care and training for limited periods of time. These homes generally provide the child with a break from group home living, particularly during holidays, weekends and school breaks. The group home or child care institution generally identifies homes in the community for children who do not have other visiting resources. The child placing agency provides the training and supervision of the home. The same procedures stated above in Section "C" entitled, "Foster

Family Homes," and Section I. 4 entitled, "Records" shall be followed with the following exceptions:

(a) A letter shall be written to the visiting home family advising that the home is approved for a specified period of time, not to exceed one year. The approval shall be for a specific child or children for either a specified visit(s) or for regular visits. The letter is in lieu of BFC-735, Foster Family Home Approval. One copy of the letter shall be sent to the agency having primary planning responsibility for the child or children, and one copy to the licensed child care institution or group home to authorize the social worker of the licensed child care institution or group home to plan directly with the visiting home parents for visits.

(b) The licensed child care institution or group home with responsibility for the child shall be responsible for obtaining necessary authorizations for visits made by the child with the visiting parents at places other than the visiting home, both within and outside the State.

(c) Financial reports may be required only as determined necessary by the licensed child-placing agency or by the Department of Human Resources.

(d) Copies of documentation of two reference checks.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-1 through -27.

**History:** Effective October 16, 1989. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

#### **660-5-39-.08      Adoptive Homes.**

(1) The goal of adoption is to provide the child, in the absence of care and nurture by the child's natural family, with a permanent family, with whom the child may develop his/her own personal identity.

##### **(a) General Requirements For Adoptive Applicants:**

1. Applicants must be at least nineteen years of age.
2. An applicant, who is a single person, may apply.
3. Applicants, who are married, must have been married at least one year.
4. Applicants motivation must be determined and understood.

5. Applicants must be financially stable.
  6. Applications may be accepted by persons employed outside the home; however, the discretion to require full time presence in the home by an applicant to ensure a child's adjustment into the home is reserved.
  7. Applicants are required to provide medical reports indicating that all family members are in good health.
  8. Adoptive parents must provide medical treatment to children as recommended by a legally licensed physician.
  9. Applications shall be accepted from persons of any religious faith.
  10. Applications may be accepted when either the prospective father or mother is a citizen of the United States.
  11. The applicants race of national origin will not be used as the single or exclusive criterion in the placement of children for Adoption.
  12. Applicants must have a Criminal History Check completed and a suitability letter issued before adoptions can be completed.
  13. A request for clearance of State Central Registry on Child abuse/neglect (DHR-DFC-1598) shall be submitted on each applicant and household member over the age of 14 years of age. (Refer to B., 3., b. on Page 18.).
- (b) Adoptive home study requests regarding placement of children who are in the permanent custody of another public state child welfare agency shall be conducted by the Department of Human Resources.
- (c) The agency shall establish administrative policies, practices and procedures related to adoptions. These shall be clearly defined and explained.
- (d) The agency shall ensure that the ability of adoptive parents to pay a fee shall not be a criterion of acceptability of applicants, and shall not in any way influence the choice of the most suitable family for each child.
- (e) Each agency shall develop a resource file of approved adoptive applicants to assure that an adequate choice of families can be considered for any one child.
- (f) A licensed child-placing agency shall not conduct or approve an adoptive home study on any of its employees or

officials, which includes board members, volunteers or anyone else who has direct affiliation with the agency. Arrangements must be made with another licensed child-placing agency or licensed social worker to conduct and approve the study, make a placement, provide post-placement supervision and for reapproval.

(g) For children whose custody has been permanently removed from the parents and the right of adoption granted by the court to the child-placing agency, the appeal period shall be expired before the child is placed in an adoptive home. An exception can be made for the child to be placed in a prospective adoptive home on a foster home basis prior to the child's being legally free. This must be in the child's best interest. The prospective adoptive parents must understand that this is an at-risk placement and be willing to accept the legal risk. The reasons for making an at-risk placement shall be carefully documented in the case record along with the adoptive parents' understanding of the same.

(h) The selection of a home and placement shall be made in accordance with sound child placement practices. Adoptive parents are to be selected on the basis of their capacity to meet the needs of a child. The prospective couple should have the opportunity to decide whether the child is suitable to them based on the background information that is shared.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-1 through -17.

**History:** Effective October 16, 1989. Emergency amendment effective February 12, 1990. Succeedent permanent amendment effective May 9, 1990. Succeedent emergency amendment effective May 8, 1991. Succeedent permanent amendment effective August 12, 1991. Amended effective November 10, 1992. Succeedent emergency amendment effective November 30, 1994. Succeedent permanent amendment: Filed February 6, 1995; effective March 13, 1995. **Repealed and New**

**Rule:** Filed October 7, 2002; effective November 11, 2002.

#### **660-5-39-.09      Adoption Statutes.**

(1) The child-placing agency shall ensure that the child has full protection of the law through completion of legal adoption in accordance with Title 26, Chapter 10, Sections 10 A and 10 C, Code of Ala. 1975 (see copy of the Alabama Adoption Law in the addendum), or appropriate adoption laws where the child lives.

(2) If the adoptive family moves to another state during the adoption process (in advance of a Final Order of Adoption being issued by the court), the agency which placed the child shall request services through the Interstate Compact on the Placement of Children of a corresponding agency or the state social service



agency in the other state to follow up on required visits to the family's new home and submit a report in writing to the placing agency.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-7 through -17.

**History:** Effective October 16, 1989. Emergency amendment effective February 12, 1990. Succeedent permanent amendment effective May 9, 1990. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

#### **660-5-39-.10      Legal Custody.**

(1) Custody shall be accepted only when the child-placing agency is equipped to serve the child. A child-placing agency shall be permitted to assume legal custody of a child in cases where the change of legal custody or guardianship is required in the best interests of the child. Transfer of legal custody can be accomplished only through court action.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-1 through -27.

**History:** Effective October 16, 1989. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

#### **660-5-39-.11      Interstate Placement Of Children.**

(1) In working with any out-of-state agency or individual in the placement of any child, the child-placing agency shall comply with provisions of the "Interstate Compact on the Placement of Children law" concerning the bringing into the state of any child, or the "Interstate Compact on the Placement of Children law" of the state into which the child is to be sent. In order to ensure such compliance, all requests and correspondence shall be channeled through the Division of Family and Children's Services.

(a) Reference is made to §§38-5-15 and 44-2-20, Code of Ala. 1975:

1. No person or agency shall bring or send any child into the State of Alabama for the purpose of placing him or procuring his adoption or placing him in any child care facility, as defined herein, without first obtaining the consent of the Department. The Department shall have the power to impose and enforce reasonable conditions precedent to the granting of such consent; and such conditions shall be for the purpose of providing the same care and protection for the child coming into the State of Alabama for placement or adoption as are afforded to a

child who is born in the State of Alabama; and such conditions shall include the following: (1) the Department shall be authorized to designate an agency in another state from which said child is being brought or sent, or in which said child's parents or guardian may be found, to interview said parent or parents or guardian, or at least one of them, for the purpose of obtaining social information, background information, and medical information about said child; (2) the Department shall be authorized to receive such information from the designated agency in the other state; (3) the Department shall be authorized to receive the birth certificate of said child from the designated agency in the other state or from another appropriate agency in the other state; (4) the Department shall be authorized to make a thorough investigation of the proposed foster parent or parents, and their home, to determine whether or not they are financially able, physically able, and morally fit to have the care, supervision, training, and control of said child; (5) the Department shall be authorized to make a thorough investigation of any child care facility to which any child is being brought or sent to determine conformity to minimum standards prescribed herein for approval or licensing and to determine the suitability of such child care facility for the care, supervision, training, and control of said child; (6) in case said child, subsequent to being brought into the State of Alabama, becomes dependent, neglected, or delinquent prior to his adoption or becoming of legal age of majority, said child shall be subject to the laws of the State of Alabama as if he were a resident child of this state; (7) the child will be placed in conformity with the rules and regulations of the Department; (8) the person with whom the child is placed shall be responsible for his proper care and training; (9) the Department shall have the right of visitation and supervision of the child and the home or the child care facility in which he is placed until adoption becomes final or the child becomes eighteen years of age; (10) the Department may, pursuant to the provisions of this chapter, prescribe the condition of an agreement or contract with the designated out-of-state agency, when a child is brought into the State of Alabama. The person or agency receiving the child in Alabama shall report to the Department at such reasonable times as the Department may direct, as to the location and well-being of the child, so long as he shall remain within the State and until he shall have reached the age of eighteen years or shall have been legally adopted.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§ 38-7-1 through -17, §§ 41-22-1 through -27.

**History:** Effective October 16, 1989. **Repealed and New Rule:**  
Filed October 7, 2002; effective November 11, 2002.

**660-5-39-.12      Records.**

(1) The child-placing agency shall maintain case records on all cases.

(a) Confidentiality of Records and Information about Children and their Families.

1. Confidential information concerning children shall not be used or disclosed for any purpose not directly concerned with the objective of care/treatment of the child as provided in the Code of Ala. 1975.

2. Confidentiality of all information about children and their families shall be maintained as follows:

(i) By keeping case records in files that are locked when unattended.

(ii) By restricting any disclosure of the whereabouts of the children to only (a) the parent or person having legal custody, (b) the agency having legal custody, or (c) persons providing authorized services.

(iii) By treating as confidential any and all discussions of information about children and their families.

(b) The Family Record shall include at least the following:

1. Completed face sheet.
2. Legal documents regarding custody and/or adoption.
3. Family history, including medical history.
4. Correspondence.

(c) Child's Record. For each child in foster care or adoptive placement, an individual Child's Record shall include at least the following:

1. Application
2. Evaluation of pre-placement visit, including dates  
(**See Admissions Process Section, 2. D., page 30, regarding preplacement**)

3. Developmental history of the child.
4. Certified copy of birth certificate.
5. Court order(s) or Agreement for Foster Care regarding custody of child.
6. Annual medical and dental reports.
7. Evaluation of plan of care at six month intervals.
8. School reports when applicable.
9. Psychological information when available.
10. Correspondence.
11. Placement History List
12. Placement Agreement or Interagency Agreement
13. Discharge and Aftercare Plans
14. Case/progress notes.

(d) Foster Family Home Records shall include at least the following:

1. Application.
2. Home study (Family Portfolio), including updated medical and financial reports.
3. Reports of ABI and FBI criminal records check of all members of the household 19 years of age or older and clearance of the Central Registry, on all household members ages fourteen (14) and older, through the Department of Human Resources.
4. Copy of Foster Family Home approval, including initial and annual approvals.
5. Copies of documentation of three reference checks during initial, and one reference check during annual renewal.
6. Record of placements, supervision ( including documentation of semi-annual reviews, incident reports or records on serious behavior problems, illness or injuries and training sessions attended), and annual evaluations (including three initial references and one annual reference).

7. Adoption/foster placement recording and subsequent supervision, if applicable.
8. List of children placed in the home, including dates of placement and removal.
9. Correspondence
10. Training
11. Results of Central Registry Clearance.

(e) Adoptive Home Records shall include at least the following:

1. Application.
2. Medical and financial statements.
3. Legal documents regarding marriage, divorce, citizenship, etc.
4. Record of ABI and FBI criminal records check of all members of the household 19 years of age or older and clearance of the Central Registry, on all household members ages fourteen (14) and older, through the Department of Human Resources.
5. Home study and disposition of application.
6. Record of contacts prior to placement.
7. Record of placement and subsequent supervision.

(f) Adoption Reapplication: Application for the second child may be taken at any point after the first adoption is legally finalized. The following information will be needed:

1. Current application forms including current medical on parents and child (within the last 12 months).
2. A Criminal History Check must have been submitted to the ABI and FBI and clearance given, in the form of a suitability letter. If this clearance has been obtained with the past 24 month updates to the history and an updated suitability letter will be needed. If it has been over 24 months, a new clearance and suitability letter will be required.
3. Clearance of the Central Registry, on all household members ages fourteen (14) and older, through the Department of Human Resources.

4. All other requirements for adoption apply. For more information see the Family Services Manual, Chapter 12, Adoptions.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-1 through -27.

**History:** Effective October 16, 1989. Emergency amendment effective May 8, 1991. Succeedent permanent amendment August 12, 1991. Succeedent emergency amendment effective November 30, 1994. Succeedent permanent amendment: Filed February 6, 1995; effective March 13, 1995. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

### **660-5-39-.13      Office Setting.**

The agency shall provide adequate and comfortable facilities for a reception room; office for interviewing, placement of children, conferences, and clerical staff; a room (or rooms) appropriately furnished and which offers privacy to serve as a meeting place for adults and children for visits, becoming acquainted, and/or in preparation for adoption or for foster family placement; and a secure repository for storage of records and microfilm. The agency shall not store agency records in a room in a personal home or have the operation of the agency in a room in a personal home.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-1 through -27.

**History:** Effective October 16, 1989. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

### **660-5-39-.14      Application And Procedure For License.**

(1) Application for a License.

(a) Any person, group or persons or corporation may obtain an application form for a license to operate a child-placing agency by contacting the Department of Human Resources by letter, telephone or scheduled visit.

(b) With the application form, a person is provided a copy of the **Minimum Standards for Child-Placing Agencies: Principles, Regulations and Procedures and an Information Form.**

(c) The completed application is to be returned to the Department within 30 days from the date of inquiry if such person, etc., wishes to pursue his/her plan to operate a child-placing agency or if such person is already operating a child-placing agency illegally (without a license).

(2) Examination and Investigation of Application.

(a) Upon receipt of the completed application, an examination of the premises of the agency and an investigation of the persons responsible for the function of the agency shall be made by a representative of the Department. The examination and investigation will be based on the minimum standards and regulations as prescribed and published by the Department. Required information will be noted on the Information Form by the applicant as such requirements are met.

(3) Disposition of the Application.

(a) When minimum standards for the operation of a child-placing agency have been met, a six (6) month permit will be issued. At the end of a 6 month period, if the Department determines that all standards have been met, the Child-placing agency will be issued a valid license that will be applicable for a two period of two years. If denial of a license is indicated, the Department will notify the applicant, verbally and in writing, of the decision, pointing out and discussing those areas of the minimum standards which have not been met.

(4) Renewal of a License.

(a) Application for renewal of a permit/license to continue operating a child-placing agency shall be made to the Department two months prior to the expiration date of the current permit/license, and on forms prescribed by the Department. An updated Information Form shall accompany the application.

(b) The Department shall reexamine and reevaluate all aspects of the child-placing agency, its facilities and program, included in the initial application process.

(c) A renewal of a permit/license shall be issued if, upon reexamination, the Department is satisfied that the child-placing agency, officers and staff of the child-placing agency continue to meet and to maintain the minimum standards prescribed and published by the Department.

(d) Quality Assurance Reports are to be completed on an annual basis and submitted to the Office of Licensing and Resource at the State Department of Human Resources. This report will be submitted at the time of licensing renewal and must be in a format form with content that is acceptable to DHR. The report will address stability, safety, permanency and well-being giving quantitative results of outcomes in each of the areas.

(1) Quality Assurance Report.

(a) An annual Quality Assurance Report is to be completed by the agency. The reports will be submitted to State DHR at the time of license renewal. The report will address stability, safety, permanency and well-being giving quantitative results of outcomes in each of the areas.

(5) Department Visits, Examination and Consultation.

(a) Visits to the child-placing agency are made by representatives of the Department to determine continued conformity with minimum standards and to provide consultative services.

1. Visits to the child-placing agency are made by representatives of the Department to determine if minimum standards are met, to investigate a complaint and to offer consultative services.

2. Visits made for the purpose of determining conformity with minimum standards or investigating a complaint may be made without prior notice.

3. The licensee may request visits of a Department representative for consultation, etc.

4. Complaints made to the Department against the licensee shall be discussed with the licensee.

5. The licensee shall have the opportunity to submit, in writing, information regarding inspections resulting from complaints reported to the Department.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-1 through -27.

**History:** Effective October 16, 1989. Emergency amendment effective July 15, 1991. Succedent permanent amendment effective October 10, 1991. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

**660-5-39-.15      Revocation Of A License.**

(1) The Department may revoke or refuse to renew the license or refuse to issue a full license to the holder of a 6-month permit, should the licensee fail to comply with the following standards:

(a) Consistently fail to maintain standards prescribed and published by the Department;

(b) Violate the provisions of the license issued;



(c) Furnish or make any misleading or any false statements or report to the Department;

(d) Refuse to submit to the Department any report or refuse to make available to the Department any records required by the Department in making investigation of the child care facility for licensing purposes; provided, however, that the Department shall not revoke or refuse to renew a license in such cases unless it has made written demand on the person, firm, or corporation operating the facility requesting such reports, and such person, firm or corporation fails or refuses to submit such records for a period of ten days;

(e) Fail or refuse to submit to an investigation by the Department;

(f) Fail or refuse to admit authorized representatives of the Department at any reasonable time for the purpose of investigation;

(g) Fail to provide, maintain, equip and keep in safe and sanitary condition premises established or used for child placing as required under standards prescribed by the Department, or as otherwise required by any law, regulation or ordinance applicable to such facility;

(h) Refuse to display its license or permit; or

(i) Fail to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provisions for personal care, medical services, clothing, learning experience and other essentials in the proper care, rearing, and training of children.

(2) If an inspection of a licensed or approved child care facility by the Department discloses any condition, deficiency, dereliction or abuse which is, or could be, hazardous to the health, the safety, or the physical, moral, or mental well-being of the children in the care of the child care facility being inspected, the Department shall have the power to revoke without notice the license or approval or 6-month permit. (See §38-7-11, Code of Ala. 1975.)

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-7-1 through -17, §§41-22-1 through -27.

**History:** Effective October 16, 1989. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

**660-5-39-.16      Appeal For A Fair Hearing And Review.**

(1) In the event a party or an applicant for a license or a licensee is denied a license or a renewal of a license or has a license suspended or revoked for the operation of a child-care facility required by this chapter to be licensed by the Department, or in the event an application for such a license or renewal of a license is not acted upon with reasonable promptness, or in the event an approval required by this chapter to be issued by the Department is denied or revoked or unduly delayed, any aggrieved party may appeal to the Department for a fair hearing of his case. Notice and opportunity for a fair hearing and notice of right to counsel shall be given the appellant by the Department, and at this hearing any party at interest may appear and present any relevant facts. The decision or action of the Department on any fair hearing on any such appeal shall be final and binding and shall be complied with.

(2) Any party aggrieved by a final decision or action of the Department refusing to grant or to issue, or suspending or revoking a license or an approval for the operation of any child-care facility required by law to be licensed or approved by the Department, is entitled to a review of such final decision or action by filing a complaint with the circuit court in the county in which the child-care facility is located or in the circuit court of Montgomery County, Alabama. All such complaints shall be filed within 30 days from the date of such final decision or action, and a review shall be granted as a matter of right upon the filing with the Department of a bond for security of costs of said review and upon filing said complaint both with the register or clerk of the circuit court, as designated herein above, and with the Department. The court may set aside the final decision of the Department only upon a finding of the court that such final decision was illegal, capricious or unsupported by the evidence. Upon motion of either party or upon its own motion, the court may at its discretion take additional evidence. The provisions of this section shall not apply to boarding homes and free homes as defined in this chapter. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §9.)

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-4-5 through -6, §§38-7-1 through -17, §§41-22-1 through -27.

**History:** Effective October 16, 1989. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

**660-5-39-.17      Provisions Of The License.**

(1) Licenses issued by the Department in child-placing agencies are valid for two years from the date of issuance, unless revoked by the Department or voluntarily surrendered by the licensee.

(2) The license is not transferable from one individual or group or corporation to another, nor from one building to another.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-4-5 through -6, §§38-7-1 through -17, §§41-22-1 through -27.

**History:** Effective October 16, 1989. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

**660-5-39-.18      Penalty For Unlicensed Facilities.**

(1) If the Department representative determines, through investigation, that any person, group of persons or corporation is, or has been, operating an unlicensed child-placing agency, the results of the investigation shall be reported to the Attorney General and to the appropriate District Attorney for prosecution.

(2) Filing of the report may be delayed for a period, not to exceed 60 days, to allow the person, group of persons or corporation reasonable opportunity to apply for a license or a six-month permit.

(3) Any person, group of persons, association or corporation who conducts, operates or acts as a child care facility without a license, or a 6-month permit or an approval ... is in violation of the provisions of the Child Care Act of 1971 ... or if any person, etc. violates any other provision of said Act ... shall be guilty of a misdemeanor ... and shall be fined not less than \$100 nor more than \$1000 or be imprisoned in the county jail not longer than one year or both fine and imprisonment.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, §§38-4-5 through -6, §§38-7-1 through -17, §§41-22-1 through -27.

**History:** Effective October 16, 1989. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.