

ALABAMA DEPARTMENT OF HUMAN RESOURCES SOCIAL SERVICES DIVISION
ADMINISTRATIVE CODE

CHAPTER 660-5-46
CRIMINAL HISTORY BACKGROUND INFORMATION CHECKS

660-5-46-.04 Criminal Records Checks Required.

(1) Every employer, child care facility, adult care facility, the Department of Human Resources, and child placing agency shall request the Department of Public Safety to conduct a criminal history background information check for the following:

(a) An employment applicant, employee or volunteer of an employer, child care facility, adult care facility, or child placing agency.

(b) A current foster parent for a child or adult or adult household member of a foster family or applicant and an adult household member of a foster family seeking approval to operate as a foster parent or foster family home for a child placing agency or the Department of Human Resources. No criminal history background information check shall be conducted under this chapter on a current foster parent or household member of a foster family if a Federal Bureau of Investigation and Alabama Department of Public Safety criminal history background information check has already been conducted under other law. Subsequent convictions of foster parents, or convictions entered into the automated system subsequent to the initial report, shall be sent by the Department of Public Safety to the Department of Human Resources as provided in this chapter.

(c) An applicant in a position in the Department of Human Resources which requires unsupervised access to children, the elderly, or individuals with disabilities as one of the essential functions of the job. No current employee of the Department of Human Resources shall be subjected to a criminal history background information check except upon reasonable suspicion. Criminal history background checks shall be required for prospective and current personnel under contract with the Department of Human Resources or working with another entity under contract with the Department of Human Resources, students, mentors, and volunteers in positions requiring unsupervised access to children, the elderly, or persons with disabilities as one of the essential functions of the job. The Department of Human Resources shall pay any fees related to checks required pursuant to this subdivision.

(d) A current licensee or applicant for a license through the Department of Human Resources to operate a child care or adult care facility.

(e) A parent applicant for a child adoptive placement through the Department of Human Resources or child placing agency and any Department of Human Resources or child placing agency approved adoptive parent prior to entry of a final decree of adoption. No criminal history background information check shall be conducted under this chapter on a current adoptive parent or household member of an adoptive family if a Federal Bureau of Investigation and Alabama Department of Public Safety criminal history background information check has already been conducted under other law. Subsequent convictions of adoptive parents, or convictions entered into the automated system subsequent to the initial report, shall be sent by the Department of Public Safety to the Department of Human Resources as elsewhere provided in this chapter.

(2) An employer, child care facility, adult care facility, the Department of Human Resources, or a child placing agency may only request a criminal history background information check by its chief executive officer, or his or her designee authorized in writing and notarized, and law enforcement shall render assistance, including assistance in obtaining fingerprints required for submission of a request to the Department of Public Safety.

(3) Every employee, volunteer or applicant, for employment or a volunteer position, licensee, Department of Human Resources adoptive parent applicant or approved adoptive parent, or applicant for a license to the Department of Human Resources to operate a child care or adult care facility shall submit two sets of fingerprints and sign a written consent to obtain the criminal history background information. Fingerprints shall not be required when a disability prevents a person from being fingerprinted. Disabilities preventing fingerprinting include the loss of both hands, severe scarring of all fingers, closed paralytic hands, and similar disabilities. In cases involving disability, a written consent to obtain available criminal history background information by name only shall be obtained. No one who fails or refuses to give written consent or submit fingerprints necessary to obtain criminal history background information may be employed, allowed to perform volunteer or other work, approved or issued a license, or allowed to retain a license or approval by the Department of Human Resources, an employer, child care facility, adult care facility, or child placing agency.

(4) Child care facilities or adult care facilities exempt from Department of Human Resources licensing shall not be required to comply with this chapter, but may voluntarily collect and forward two complete acceptable sets of fingerprints, the written consent, and nonrefundable fee from applicants or employees to the

Department of Public Safety to request a criminal history background information check which shall be processed pursuant to this chapter. Licensed social workers conducting home studies may also request a criminal history background check which shall be processed pursuant to this chapter. Provided, however, if a license-exempt child care facility operated as part of a church ministry or religious school does not choose to comply with this chapter on a voluntary basis, then the employee or prospective employee of the child care facility shall request a criminal history background check, and the request shall be processed in the same manner as for other employees or applicants under the provisions of this chapter. The Department of Human Resources shall, prior to the disbursement of any subsidized child care funds, require all employees and applicants of legally operating child care facilities to submit verification of the application for a criminal history background check and the results thereof when obtained. Upon reasonable suspicion that the individual has a criminal conviction or has not had a criminal history background check conducted, the Department of Human Resources shall have the right to require employees of license-exempt facilities to submit each applicant for a criminal history background check and the results thereof when obtained.

Author: Dianne Wright, James E. Long

Statutory Authority: 42 U.S.C. §5119, et seq.; 42 U.S.C. §671(g) (20); Ala. Act No. 2000-775; Code of Ala. 1975, §§38-7-1, et seq., 38-2-6, 15-20-20, et seq.

History: New Rule: Filed August 4, 2000; effective September 8, 2000; operative November 1, 2000.