



December 8, 2017

Dear Child Care Provider:

This past summer Child Care Licensing (CCL) provided you an [update](#) on legislation that passed during the most recent legislative session, including House Bill 4094 that becomes effective on January 1, 2018 and amends Human Resources Code §42.056 pertaining to background checks. We would like to take this opportunity to provide you an update on CCL’s progress to implement this legislation and how it will impact you.

Statutory Change	Implementation Progress & Anticipated Effective Dates
<p>Removed the requirement to submit a new background check every 24 months for individuals who are required to submit a fingerprint check</p>	<p>This change was made in anticipation of the FBI’s national “rap back” program, which will allow CCL to receive real time arrest history that occurs anywhere in the U.S., not just in Texas, for any person who is required to submit a fingerprint check.</p> <p>While HRC §42.056 no longer provides an explicit requirement regarding the frequency of renewal background checks, 40 Texas Administrative Code (TAC) §745.625 will still require providers to submit renewal background checks no later than two years from the date of the most recently requested check.</p> <p><u>Anticipated Effective Date</u> CCL has drafted rule changes to change the frequency of the renewal background checks for individuals who require fingerprint checks to every 5 years. CCL anticipates this rule change will become effective on or around August 1, 2018.</p>
<p>Added a specific requirement to submit a background check, including a fingerprint check, for an individual who provides care or supervision to children</p>	<p>This change clarifies HHSC’s authority to require a background check, including a fingerprint check, for all individuals providing care or supervision to children in a child care</p>

Statutory Change	Implementation Progress & Anticipated Effective Dates
in care under a contract with the operation	<p>operation, including individuals providing this care under a contract with the operation. Contractors who already have a background check due to a professional license or through another governmental entity will continue to be exempt from background checks if they meet the requirements listed under §745.615(d).</p> <p><u>Anticipated Effective Date</u> CCL has drafted rule changes and anticipates this rule change will become effective on or around August 1, 2018.</p>
Waived the requirement to submit new fingerprints if the individual has an active subscription with the FBI's national rap back service	<p>The Texas Department of Public Safety (DPS) has not yet set up the National Rap Back service. Until DPS grants HHSC access to the National Rap Back program, CCL will continue to honor 40 TAC §745.630, which allows CCL to waive new fingerprints if the person has a previously conducted fingerprint check and it has been no more than two years since the date of the person's last background check (please refer to TAC §745.630 for additional details).</p> <p><u>Anticipated Effective Date</u> CCL has drafted rule changes and anticipates this rule change will become effective on or around August 1, 2018.</p>
Granted HHSC the authority to conduct background checks of any registry, repository, or database required by federal law	<p>This change was made to clarify HHSC's authority to conduct background checks of any registry required by law. HHSC already requires foster and adoptive parents and their household members to submit to a search of another state's abuse and neglect repository if the individual has lived out of state in the five years preceding the date of the background check request. CCL has drafted a rule that will expand this requirement to any individual subject to background check requirements.</p>

Statutory Change	Implementation Progress & Anticipated Effective Dates
	<p><u>Anticipated Effective Date</u> CCL has drafted rule changes and anticipates this rule change will become effective on or around August 1, 2018.</p>
<p>Restricted the ability for a person whose background check is incomplete to be present at an operation, by prohibiting a person with a pending background check to provide direct care or have direct access to a child in care until the person’s FBI and Central Registry checks clear</p>	<p>The Centralized Background Check Unit (CBCU) will no longer receive name-based criminal history results from DPS for individuals who require fingerprint checks. This means you:</p> <ul style="list-style-type: none"> • will not receive criminal history results until the individual has submitted his or her fingerprints to the Federal of Bureau Investigation (FBI) and CBCU notifies you of the results; and • may not allow an individual to begin working at your operation until you receive the Central Registry and FBI results, and the results clear the person to be present at your operation. <p>Please note that this is a significant change as some providers currently use the staff shortage exception outlined in §745.626 to allow individuals to begin working prior to receiving FBI results. This change is being made to come into compliance with state statute.</p> <p><u>Anticipated Effective Date</u> This change becomes effective on January 7, 2018, at which time CBCU will stop receiving name-based criminal history results from DPS for individuals requiring fingerprint checks.</p>

CCL also previously communicated to you that significant changes are being made to the Child Care Licensing Provider Account pages to enhance the functionality for submitting and viewing background checks. The tentative date for these changes was January 2018, but it has been **rescheduled to summer 2018** to align with the anticipated effective date of the rule changes.

December 8, 2017

4

CCL will share more detailed information regarding the rule and technological changes at a later date. We look forward to working with you as we implement these new requirements and continue to work toward our common goal of protecting the health, safety and well-being of children in out of home care in Texas.

For more information on background checks and updates to this process, please visit the CBCU website at http://www.dfps.state.tx.us/Background_Checks/.

Sincerely,

Child Care Licensing