



August 4, 2017

Dear Residential Child Care Provider:

Due to recent legislation, there are upcoming changes to the structure of Child Care Licensing (CCL). The CCL program, including licensing inspectors and the Centralized Background Check Unit (CBCU) will be moved under a new Regulatory division within the Health and Human Services Commission (HHSC). Investigators who conduct investigations of alleged abuse and neglect in child care operations will remain at the Department of Family and Protective Services (DFPS).

We are confident that these changes will feel seamless to you. While your inspector's badge and email may say HHSC rather than DFPS, CCL is here to provide the same level of regulatory oversight and service to you. You can expect to hear directly from your CCL inspector in the coming weeks.

Additionally, a number of bills passed during the most recent legislative session that will impact residential child care operations. CCL has posted a chart on the [Child Care Minimum Standards](#) webpage that includes the following information for such bills:

- A brief summary of the changes in the law;
- Information on how to comply with the changes in the law; and
- Information on when to comply with the new law.

Please review the chart carefully, as not all bills may impact your specific type of program. CCL will continue to communicate with you as additional decisions are made on how to implement this recent legislation.

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.

Sincerely,

Jean Shaw  
Associate Commissioner  
Child Care Licensing

# Residential Child Care

Bill Number	Summary	How To Comply	When To Comply
<p>House Bill 7  <i>This law applies to residential child care operations:</i></p> <ul style="list-style-type: none"> <li>• <i>Child-Placing Agencies</i></li> <li>• <i>General Residential Operations</i></li> <li>• <i>Independent Foster Family Homes</i></li> <li>• <i>Independent Foster Group Homes</i></li> <li>• <i>Agency Foster Group Homes</i></li> </ul> <p><i>Effective 9/1/2017</i></p>	<p>1. Amends Human Resources Code (HRC), Chapter 42, to make changes related to residential child care operations. The changes:</p> <ul style="list-style-type: none"> <li>• lower the minimum capacity for General Residential Operations from 13 to 7;</li> <li>• prohibit Child-Placing Agencies from verifying group homes;</li> <li>• allow Child-Placing Agencies to increase the capacity of a foster family home to 8 under circumstances allowed by Licensing rules;</li> <li>• prohibit Licensing from issuing any new permits to Independent Foster Family Homes or Independent Foster Group Homes after 8/31/17;</li> <li>• authorize Licensing to develop a process for a Child-Placing Agency to issue provisional verifications to foster family homes; and</li> <li>• require interested parties to submit written information during a public hearing for Licensing to consider when determining whether or not to issue or deny a permit.</li> </ul> <p>2. Allows Licensing, subject to appropriation of funds, to adopt minimum standards to create three new license types as soon as practicable after the effective date of the bill. The three new license types are:</p> <ul style="list-style-type: none"> <li>• Specialized child care homes;</li> </ul>	<p>No new independent foster family homes, independent foster group homes, or agency foster group homes can be licensed or verified after August 31, 2017. Those homes licensed or verified before September 1, 2017, may continue operate under the law in effect prior to that date, until Licensing develops and implements procedures for conversion and relinquishment.</p> <p>If your operation is licensed to provide trafficking victim services, you should continue to comply with current minimum standards, administrative rules, and statute.</p>	<p>Additional information will be provided as Licensing develops processes and rules necessary to implement this bill.</p>

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	<ul style="list-style-type: none"> <li>• Cottage home operations; and</li> <li>• Continuum of care operations.</li> </ul> <p>3. Amends Human Resources Code (HRC) §42.066 to require a general residential operation (GRO) that provides mental health treatment or services to a child in DFPS conservatorship to timely submit to courts all information requested by that court.</p> <p>4. Adds HRC §42.041(b) (24) to exempt facilities that provide respite care exclusively for a local mental health authority under contract with the local mental health authority.</p>		
<p>House Bill 249 – SECTIONS 2, 7, 8 and 14            Senate Bill 11 – SECTIONS 7, 23, 26 and 32  <i>This law applies to all regulated child care settings and those subject to regulation under Chapter 42 of the Human Resource Code</i>  <i>Effective 9/1/2017</i></p>	<p>Amends the Government Code, Texas Family Code (TFC), and Human Resources Code (HRC) to:</p> <ul style="list-style-type: none"> <li>• Keep the responsibility of conducting investigations of allegations of abuse, neglect, and exploitation (A/N/E) at the Department of Family and Protective Services (while legislation from the previous legislative session moved Child Care Licensing out of DFPS and into a new Regulatory division under the Health and Human Services Commission as of September 1, 2017);</li> <li>• Require DFPS to create investigative units to specialize in investigating allegations of A/N/E at child care operations, and requires those units to:               <ul style="list-style-type: none"> <li>○ Use the definitions of A/N/E as defined in TFC §261.001 to</li> </ul> </li> </ul>	<p>No action on your part is required.</p>	<p>N/A</p>

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	<p>evaluate whether abuse, neglect, or exploitation occurred at the child operation; and</p> <ul style="list-style-type: none"> <li>○ Share information about the investigation with Licensing.</li> </ul> <p><u>Rule Changes</u> Rules will be proposed as needed implement these requirements.</p>		
<p>Senate Bill 11 – SECTIONS 4-6 <i>This law applies to adoption services provided by a Child-Placing Agency Effective 9/1/2017</i></p>	<p>Amends TFC §162.007 to require a child's health history include (to the extent known by the department) information as to whether a child's birth mother consumed alcohol during pregnancy and whether the child has been diagnosed with fetal alcohol spectrum disorder. Amends TFC §162.0062 to grant prospective adoptive parent(s) the right to examine any report or other information related to a child's health history, including portions of the HSEGH report. The child-placing agency placing a child for adoption must:</p> <ul style="list-style-type: none"> <li>• Inform the prospective adoptive parent(s) of the right to view the child's medical record(s);</li> <li>• Edit any records or documents, as necessary, in order to protect the confidentiality of the child's biological parents or identity of anyone else considered confidential; and</li> <li>• Provide access to research regarding the underlying health issues or conditions of trauma that may impact the child's development and permanency.</li> </ul>	<p>HSEGH should include information as to whether the child's birth mother consumed alcohol during pregnancy and whether the child was diagnosed with fetal alcohol spectrum disorder. Since this is outlined in current rules no new action is required.</p> <p>If after reviewing a child's HSEGH report, a prospective foster parent indicates that they want to proceed with adoption the CPA must provide research related to any of the child's underlying health issues or conditions of trauma that may impact the child's development and permanency.</p>	<p>9/1/17</p>

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Bill Number	Summary	How To Comply	When To Comply
	<p><u>Rule Changes</u> Rule amendments will be proposed to 40 TAC §749.3391 and §749.3395.</p>		
<p>House Bill 834 <i>This law applies to Child-Placing Agencies that offer Adoption Services</i> <i>Effective 9/1/2017</i></p>	<p>Amends Chapter 162 of the Family Code and Chapter 25 of the Penal Code to make it unlawful to use a power of attorney, or any other informal mechanism, to permanently transfer custody of an adopted child to a non-relative. Court approval is required for a parent to lawfully place an adopted child permanently with a non-relative.</p> <p>Requires a Child-Placing Agency to provide prospective adoptive parents with information on community resources available to support adoptive parents and options available if the parents are unable to care for the child.</p> <p><u>Rule Changes</u> Rule amendments will be proposed to 40 TAC §749.3721 and §749.3771.</p>	<p>Child-Placing Agencies must ensure that post adoption support include community services available to adoptive parents and the options available if the parents cannot care for the adopted child.</p>	<p>9/1/2017</p>
<p>House Bill 3859 <i>This law applies to:</i></p> <ul style="list-style-type: none"> <li>• <i>General Residential Operations</i></li> <li>• <i>Child-Placing Agencies</i></li> <li>• <i>Independent Foster Family Homes</i></li> <li>• <i>Independent Foster Group Homes</i></li> </ul> <p><i>Effective 9/1/2017</i></p>	<p>Adds Human Resource Code Chapter 45 to allow child welfare service providers to decline the procurement of services to children in care if those services go against the providers' sincerely held religious beliefs.</p> <p>A child welfare services provider who declines to provide a child welfare service that conflicts with the provider's sincerely held religious beliefs must:</p> <ul style="list-style-type: none"> <li>• Provide to the person seeking the service written information directing the person to DFPS webpage that includes a list of other licensed child welfare services providers; or other information sources that identify other</li> </ul>	<p>No action on your part is required for Licensing compliance.</p>	<p>N/A</p>

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Bill Number	Summary	How To Comply	When To Comply
	<p>licensed child welfare services providers who provide the service being denied;</p> <ul style="list-style-type: none"> <li>• Refer the applicant to another licensed child welfare services provider who provides the service being denied; or</li> <li>• Refer the applicant to the department or to a single source continuum contractor to identify and locate a licensed child welfare services provider who provides the service being denied.</li> </ul>		
<p>House Bill 4094  <i>This law applies to:</i></p> <ul style="list-style-type: none"> <li>• <i>General Residential Operations</i></li> <li>• <i>Child Placing Agencies</i></li> <li>• <i>Agency Foster Family Homes</i></li> <li>• <i>Agency Foster Group Homes</i></li> <li>• <i>Independent Foster Family Homes</i></li> <li>• <i>Independent Foster Group Homes</i></li> </ul> <p><i>Changes to HRC §42.056 effective 1/1/2018</i></p>	<p>Amends HRC §42.056 and Government Code Section §411.114, regarding DFPS authority to conduct background checks, obtain criminal history record information from Texas Department of Public Safety (DPS), and release such information. The changes were made to comply with federal law and include:</p> <ul style="list-style-type: none"> <li>• Removing the requirement to submit a new background check every 24 months for individuals who are required to submit a fingerprint check;</li> <li>• Adding a requirement to submit checks on certain contractors;</li> <li>• Waiving the requirement to submit new fingerprints if the individual has an active subscription with the FBI's national rap back service;</li> <li>• Granting Licensing authority to conduct background checks of any registry, repository, or database required by federal law;</li> </ul>	<p>No action on your part is required until January 2018. Licensing will share more detailed information regarding the criteria and rule changes at a later date.</p>	<p>January 2018</p>

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Bill Number	Summary	How To Comply	When To Comply
	<ul style="list-style-type: none"> <li>Restricting 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 and requiring the person to be supervised by a qualified individual at all times.</li> </ul> <p><u>Rule Changes:</u> Licensing will propose changes to 40 TAC Chapters 743 and 745 in September 2017. If adopted, the rules will become effective January 2018.</p> <p><u>Provider Account Changes:</u> Significant changes are being to the Child Care Licensing Provider Account pages to enhance the functionality for submitting and viewing background checks. The tentative date for these changes to be made is January 2018.</p>		
<p>Senate Bill 213 <i>This law applies to all regulated child care settings</i> <i>Effective 9/1/2017</i></p>	<p>Amends the Government Code to create an office of ombudsman for DFPS that will serve as a neutral party to assist individuals with complaints within DFPS, moves the current ombudsman for children and youth in foster care into the ombudsman for DFPS and transfers the current Office of Consumer Affairs to the proposed ombudsman for DFPS. A Child-Placing Agency will be able to file complaints with the office for disputes related to the child's placement or permanency plan.</p>	<p>No action on your part is required.</p>	<p>N/A</p>
<p>Senate Bill 1571 <i>This law applies to:</i></p>	<p>Amends Chapter 2 of the Code of Criminal Procedure by adding Article 2.273 to:</p>	<p>Child-Placing Agencies and General Residential Operations</p>	<p>9/1/2017</p>

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<ul style="list-style-type: none"> <li>• <i>Child-Placing Agencies</i></li> <li>• <i>General Residential Operations</i></li> </ul> <p><i>Effective 9/1/2017</i></p>	<ul style="list-style-type: none"> <li>• Address when a child is has been taken into possession by a law enforcement officer in an emergency without a court order, as authorized by TFC §262.104;</li> <li>• Specify to whom the child may be released; and</li> <li>• Specify what steps must be taken before the child is released.</li> </ul> <p><u>Rule changes</u> CCL will propose amendments to 40 TAC Chapters 745, 748, and 749.</p>	<p>approved to accept emergency placements will continue to follow current rules concerning emergency admissions.</p>	