

## **Registered Child Care Homes and Listed Family Homes: Criminal History Requirements**

In accordance with §745.651 (What types of criminal convictions may affect a person's ability to be present at an operation?), this chart notes criminal convictions that may affect a person's ability to be present in Registered Child Care Homes and Listed Family Homes.

### **In this chart the words below have the following meaning:**

- "Absolute Bar" means a person convicted of a particular crime is permanently prohibited from being present at the operation while children are in care; and the person does NOT qualify for a risk evaluation.
- "N/A" has two meanings in this chart.
  - a. "N/A" under the "FELONY" or "MISDEMEANOR" column means there is no such relevant felony or misdemeanor crime.
  - b. "N/A" under the "If this person is eligible for a risk evaluation . . ." question column means the question is not applicable, because a person with this conviction is not eligible for a risk evaluation.
- "No Action Required" means there is such a crime, but no action is required.
- "Risk Evaluation" means a person convicted of a particular crime is eligible for a risk evaluation based solely on that particular conviction. However, a person's overall eligibility for a risk evaluation is based on the entirety of the person's criminal and DFPS Central Registry history.
- "Risk Evaluation if conviction was in the last 10 years" means a risk evaluation is only required for 10 years from the date of the conviction. After the 10 years have passed, the particular crime no longer requires any action by DFPS, unless the person is on parole for a felony offense.
- "5-Year Bar; Risk Evaluation b/w 5 & 10 Years" means a person convicted of a particular crime is prohibited for 5 years from being present at the operation while children are in care. After the 5 years have passed, then the person is subject to a risk evaluation for an additional 5 years. After the total 10 years have passed, the particular crime no longer requires an action by DFPS, unless the person is on parole for a felony offense.

**In reviewing this chart, you must understand the following:**

- This chart applies to all criminal history checks conducted under Title 40, Texas Administrative Code, Chapter 745, Licensing, Subchapter F, Background Checks.
- Time limits are based on the date of conviction.
- Although the crimes listed in this chart reflect only offenses in Texas statutes, the same criminal history requirements apply to similar criminal offenses under the laws of another state or federal law.
- For purposes of this chart and a person's ability to be present at an operation, a Criminal Attempt conviction will be treated as falling under the same section of the Penal Code as the offense that was attempted. For example, a conviction for Attempt to Commit Murder would be treated in the same manner as Murder and would result in an absolute bar. Likewise, a conviction for Criminal Conspiracy or Criminal Solicitation will be treated as falling under the same section of the Penal Code as the offense that was the subject of the conspiracy or the solicitation.
- In accordance with §745.651(c), a person currently on parole for any felony offense not otherwise barrable must have an approved risk evaluation prior to being present at an operation.

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**Texas Penal Code, Title 4, Inchoate Offenses**

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Criminal Solicitation of a Minor (felony or misdemeanor)	15.031	Absolute Bar	Absolute Bar	N/A

**Texas Penal Code, Title 5, Offenses Against the Person**

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Murder (felony)	19.02	Absolute Bar†	N/A	N/A
Capital Murder (felony)	19.03	Absolute Bar†	N/A	N/A
Manslaughter (felony)	19.04	Absolute Bar†	N/A	N/A
Criminally Negligent Homicide (felony)	19.05	Absolute Bar†	Absolute Bar^	N/A
Unlawful Restraint (felony or misdemeanor)	20.02	Absolute Bar†	Absolute Bar	N/A
Kidnapping (felony)	20.03	Absolute Bar†	N/A	N/A
Aggravated Kidnapping (felony)	20.04	Absolute Bar†	N/A	N/A

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Smuggling of Persons (felony)	20.05	Absolute Bar	N/A	N/A
Continuous Smuggling of Persons (felony)	20.06	Absolute Bar	N/A	N/A
Trafficking of Persons (felony)	20A.02	Absolute Bar	N/A	N/A
Continuous Trafficking of Persons (felony)	20A.03	Absolute Bar	N/A	N/A
Continuous Sexual Abuse of Young Child or Children (felony)	21.02	Absolute Bar†	N/A	N/A
Public Lewdness (misdemeanor)	21.07	N/A	Absolute Bar	N/A
Indecent Exposure (misdemeanor )	21.08	N/A	Absolute Bar	N/A
Indecency with a Child (felony)	21.11	Absolute Bar†	N/A	N/A
Improper Relationship Between Educator & Student (felony)	21.12	Absolute Bar†	N/A	N/A
Improper Photography or Visual Recording (felony) or Invasive Visual Recording (felony)*	21.15	Absolute Bar	Absolute Bar^	N/A
Unlawful Disclosure or Promotion of Intimate Visual Material (misdemeanor)	21.16**	N/A	Risk Evaluation	No
Voyeurism (felony or misdemeanor)	21.16**	Absolute Bar	Risk Evaluation††	Felony: N/A Misdemeanor: No

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Assault (felony or misdemeanor)	22.01	Absolute Bar†	Absolute Bar	N/A
Sexual Assault (felony)	22.011	Absolute Bar†	N/A	N/A
Aggravated Assault (felony)	22.02	Absolute Bar†	N/A	N/A
Aggravated Sexual Assault (felony)	22.021	Absolute Bar†	N/A	N/A
Injury to a Child, Elderly Individual, or Disabled Individual (felony)	22.04	Absolute Bar†	Absolute Bar^	N/A
Abandoning or Endangering Child (felony)	22.041	Absolute Bar†	Absolute Bar^	N/A
Deadly Conduct (felony or misdemeanor)	22.05	Absolute Bar	Absolute Bar	N/A
Terroristic Threat (felony or misdemeanor)	22.07	Absolute Bar	Absolute Bar	N/A
Aiding Suicide (felony or misdemeanor)	22.08	Absolute Bar	Absolute Bar	N/A
Tampering with a Consumer Product (felony)	22.09	Absolute Bar	N/A	N/A
Leaving a Child in a Vehicle (misdemeanor)	22.10	N/A	Absolute Bar	N/A
Harassment by Persons in Certain Correctional Facilities; Harassment of a Public Servant (felony)	22.11	Absolute Bar	N/A	N/A

**Texas Penal Code, Title 6, Chapter 25, Offenses Against the Family**

Offense	Texas Penal Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Bigamy (felony)	25.01	Risk Evaluation	N/A	No
Prohibited Sexual Conduct (felony)	25.02	Absolute Bar	N/A	N/A
Interference with Child Custody (felony)	25.03	Absolute Bar†	Absolute Bar^	N/A
Agreement to Abduct from Custody (felony)	25.031	Absolute Bar†	Absolute Bar^	N/A
Enticing a Child (felony or misdemeanor)	25.04	Absolute Bar†	Absolute Bar	N/A
Criminal Nonsupport (felony)	25.05	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years^	Yes^^
Harboring Runaway Child (misdemeanor)	25.06	N/A	Absolute Bar	N/A
Violations of Certain Court Orders or Conditions of Bond in a Family Violence Case (felony or misdemeanor) or Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Sexual Assault or Abuse, Stalking, or Trafficking Case (felony or misdemeanor)*	25.07	Absolute Bar†	Absolute Bar	N/A
Violation of Protective Order Preventing Offense Caused by Bias or Prejudice (felony or misdemeanor)	25.071	Absolute Bar	Absolute Bar	N/A
Repeated Violation of Court Order or Condition of Bond in Family Violence case (felony or misdemeanor)	25.072	Absolute Bar	Absolute Bar	N/A

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Sale or Purchase of Child (felony)	25.08	Absolute Bar†	N/A	N/A
Advertising for Placement of Child (felony or misdemeanor)	25.09	Absolute Bar†	Absolute Bar	N/A
Interference with Rights of a Guardian of the Person (felony)	25.10	Absolute Bar†	Absolute Bar^	N/A
Continuous Violence Against the Family (felony)	25.11	Absolute Bar†	N/A	N/A

### **Texas Penal Code, Title 7, Offenses Against Property**

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Arson (felony)	28.02	Absolute Bar†	Absolute Bar^	N/A
Criminal Mischief (felony or misdemeanor)	28.03	Risk Evaluation	No Action Required	No
Robbery (felony)	29.02	Absolute Bar	N/A	N/A
Aggravated Robbery (felony)	29.03	Absolute Bar	N/A	N/A
Burglary (felony)	30.02	Risk Evaluation if conviction was in the last 10 years	No Action Required^	Yes^^

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Theft (felony or misdemeanor)	31.03, 31.04, 31.05, 31.12, 31.16	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Forgery (felony or misdemeanor)	32.21	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Credit Card or Debit Card Abuse (felony)	32.31	Risk Evaluation if conviction was in the last 10 years	N/A	Yes^^
False Statement to Obtain Property or Credit in the Provision of Certain Services (felony or misdemeanor)	32.32	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Hindering Secured Creditors (felony or misdemeanor)	32.33	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Misapplication of Fiduciary Property (felony or misdemeanor)	32.45	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Securing Execution of Fiduciary Property (felony or misdemeanor)	32.46	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Exploitation of Child, Elderly Individual, or Disabled Individual (felony)	32.53	Risk Evaluation††	N/A	No
Breach of Computer Security (felony or misdemeanor)	33.02	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Online Solicitation of a Minor (felony)	33.021	Absolute Bar†	N/A	N/A
Telecommunications Crimes (felony or misdemeanor)	33A	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Money Laundering (felony)	34.02	Risk Evaluation if conviction was in the last 10 years	N/A	Yes^^



<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Insurance Fraud (felony or misdemeanor)	35.02	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Medicaid Fraud (felony or misdemeanor)	35A.02	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^

### **Texas Penal Code, Title 8, Offenses Against Administration**

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Bribery (felony)	36.02	Risk Evaluation if conviction was in the last 10 years	N/A	Yes^^
Coercion of Public Servant or Voter (felony or misdemeanor)	36.03	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years	Yes^^
Improper Influence (misdemeanor)	36.04	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Tampering with Witness (felony)	36.05	Risk Evaluation	N/A	No
Obstruction or Retaliation (felony)	36.06	Absolute Bar	N/A	N/A
Acceptance of Honorarium (misdemeanor)	36.07	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Gift to Public Servant by Person Subject to His Jurisdiction (misdemeanor)	36.08	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Offering Gift to Public Servant (misdemeanor)	36.09	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Perjury (misdemeanor)	37.02	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Aggravated Perjury (felony)	37.03	Risk Evaluation if conviction was in the last 10 years	N/A	Yes^^
Tampering with or Fabricating Physical Evidence (felony or misdemeanor)	37.09	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Tampering with Governmental Record (felony or misdemeanor)	37.10	Risk Evaluation	<ul style="list-style-type: none"> <li>For Class A: Risk Evaluation if conviction was in the last 10 years</li> <li>For Class B or C: No Action Required</li> </ul>	Yes^^
Fraudulent Filing of Financing Statement (felony or misdemeanor)	37.101	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years	Yes^^
Impersonating a Public Servant (felony)	37.11	Risk Evaluation if conviction was in the last 10 years	N/A	Yes^^
Record of a Fraudulent Court (felony or misdemeanor)	37.13	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years	Yes^^
False Statement Regarding Child Custody Determination Made in Foreign Country (felony)	37.14	Risk Evaluation if conviction was in the last 10 years	N/A	Yes^^
Failure to Identify (misdemeanor)	38.02	N/A	<ul style="list-style-type: none"> <li>For Class A: Risk Evaluation if conviction was in the last 10 years</li> <li>For Class B or C: No Action Required</li> </ul>	Yes^^

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Resisting Arrest, Search, or Transportation (felony or misdemeanor)	38.03	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Evading Arrest or Detention (felony or misdemeanor)	38.04	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Hindering Apprehension or Prosecution (felony or misdemeanor)	38.05	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years	Yes^^
Escape (felony or misdemeanor)	38.06	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Permitting or Facilitating Escape (felony or misdemeanor)	38.07	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Implements for Escape (felony)	38.09	Risk Evaluation	N/A	No
Bail Jumping and Failure to Appear (felony and misdemeanor)	38.10	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Improper Contact with Victim (felony and misdemeanor)	38.111	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Violation of Protective Order Issued on Basis of Sexual Assault or Abuse, Stalking, or Trafficking (misdemeanor)	38.112	N/A	Absolute Bar	N/A
Unauthorized Absence from Community Corrections Facility, County Correctional Center, or Assignment Site (felony)	38.113	Risk Evaluation if conviction was in the last 10 years	No Action Required^	Yes^^
Falsely Holding Oneself Out as a Lawyer (felony)	38.122	Risk Evaluation if conviction was in the last 10 years	N/A	Yes^^

Offense	Texas Penal Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Unauthorized Practice of Law (felony or misdemeanor)	38.123	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years	Yes^^
Taking or Attempting to Take Weapon from Peace Officer, Federal Special Investigator, Employee or Official of Correctional Facility, Parole Officer, Community Supervision and Corrections Department Officer, or Commissioned Security Officer (felony)	38.14	Risk Evaluation	Risk Evaluation^	No
Interference with Police Service Animals (felony or misdemeanor)	38.151	Risk Evaluation	<ul style="list-style-type: none"> <li>• For Class A: Risk Evaluation if conviction was in the last 10 years</li> <li>• For Class B or C: No Action Required</li> </ul>	Felony: No Misdemeanor: Yes^^
Interference with Radio Frequency Licensed to Government Entity (felony or misdemeanor)	38.152	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Failure to Stop or Report Aggravated Sexual Assault of Child (misdemeanor)	38.17	N/A	Risk Evaluation	No
Failure to Report Felony (misdemeanor)	38.171	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Abuse of Official Capacity (felony or misdemeanor)	39.02	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Official Oppression (felony or misdemeanor)	39.03	Risk Evaluation	Risk Evaluation	No
Violations of the Civil Rights of Person in Custody; Improper Sexual Activity with Person in Custody (felony or misdemeanor)	39.04	Risk Evaluation	Risk Evaluation	No

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Failure to Report Death of Prisoner (misdemeanor)	39.05	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Misuse of Official Information (felony or misdemeanor)	39.06	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^

### **Texas Penal Code, Title 9, Disorderly Conduct and Related Offenses**

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Harassment (misdemeanor)	42.07	N/A	Risk Evaluation	No
Stalking (felony)	42.072	Absolute Bar	N/A	N/A
Abuse of Corpse (misdemeanor)	42.08	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Cruelty to Livestock Animals (felony or misdemeanor)	42.09	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	No
Attack on Assistance Animal (felony or misdemeanor)	42.091	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	No
Cruelty to Nonlivestock Animals (felony or misdemeanor)	42.092	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	No

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Dog Fighting (felony or misdemeanor)	42.10	Risk Evaluation	Risk Evaluation if conviction was in the last 10 years	No
Cockfighting (felony or misdemeanor)	42.105	Risk Evaluation	Risk Evaluation if conviction was in last 10 years	No
Prostitution (felony or misdemeanor)	43.02	Absolute Bar	Absolute Bar	N/A
Promotion of Prostitution (felony or misdemeanor)	43.03	Absolute Bar	Absolute Bar	N/A
Aggravated Promotion of Prostitution (felony)	43.04	Absolute Bar	N/A	N/A
Compelling Prostitution (felony)	43.05	Absolute Bar	N/A	N/A
Obscene Display or Distribution (misdemeanor)	43.22	N/A	Absolute Bar	N/A
Obscenity (felony or misdemeanor)	43.23	Absolute Bar	Absolute Bar	N/A
Sale, Distribution, or Display of Harmful Material to Minor (felony or misdemeanor)	43.24	Absolute Bar	Absolute Bar	N/A
Sexual Performance by a Child (felony)	43.25	Absolute Bar†	N/A	N/A
Employment Harmful to Children (felony)	43.251	Absolute Bar†	N/A	N/A
Possession or Promotion of Child Pornography (felony)	43.26	Absolute Bar†	N/A	N/A

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Electronic Transmission of Certain Visual Material Depicting Minor (misdemeanor)	43.261	N/A	Absolute Bar	N/A

### Texas Penal Code, Title 10, Offenses Against Public Health, Safety, and Morals

<b>Offense</b>	<b>Texas Penal Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Making a Firearm Accessible to a Child (misdemeanor)	46.13	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Firearm Smuggling (felony)	46.14	Risk Evaluation	N/A	No
Prohibition of the Purchase and Sale of Human Organs (misdemeanor)	48.02	N/A	Risk Evaluation	No
Public Intoxication (misdemeanor)	49.02	N/A	Risk Evaluation if conviction was in the last 5 years	Yes^^
Possession of Alcoholic Beverage in Motor Vehicle (misdemeanor)	49.031	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Driving While Intoxicated (felony or misdemeanor)	49.04	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Driving While Intoxicated with Child Passenger (felony)	49.045	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	No

Offense	Texas Penal Code	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Flying While Intoxicated (felony or misdemeanor)	49.05	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Boating While Intoxicated (felony or misdemeanor)	49.06	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Assembling or Operating an Amusement Ride While Intoxicated (felony or misdemeanor)	49.065	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Intoxication Assault (felony)	49.07	Absolute Bar†	N/A	N/A
Intoxication Manslaughter (felony)	49.08	Absolute Bar†	N/A	N/A



### Texas Penal Code, Title 11, Organized Crime

Offense	Texas Penal Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Engaging in Organized Criminal Activity (felony)	71.02	Risk Evaluation	Risk Evaluation	No
Violation of Court Order Enjoining Organized Criminal Activity (misdemeanor)	71.021	N/A	Risk Evaluation	No
Coercing, Inducing, or Soliciting Membership in a Criminal Street Gang (felony)	71.022	Risk Evaluation	N/A	No
Directing Activities of Certain Criminal Street Gangs (felony)	71.023	Risk Evaluation	N/A	No

### Texas Education Code Chapter 37 Discipline; Law and Order

Offense	Education Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Personal Hazing Offense (felony or misdemeanor) or Hazing (felony or misdemeanor)*	37.152	Absolute Bar	Risk Evaluation if conviction was in the last 10 years	No

**Texas Family Code  
Chapter 107 Special Appointments and Social Studies  
Chapter 156 Modification  
Chapter 162 Adoption  
Chapter 261 Investigation of Report of Child Abuse or Neglect  
Chapter 262 Procedures in Suit by Governmental Entity to Protect Health and Safety of Child**

<b>Offense</b>	<b>Family Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child- Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Disclosing confidential information obtained from DFPS social study (misdemeanor)	107.05145	N/A	Risk Evaluation	No
Modification of order on conviction for Child Abuse (misdemeanor)	156.104	N/A	Risk Evaluation	No
Modification of order on conviction for Family Violence (misdemeanor)	156.1045	N/A	Risk Evaluation	No
Placement by Unauthorized Person (misdemeanor)	162.025	N/A	Risk Evaluation	No
General Penalty: Violating the Interstate Compact on the Placement of children (misdemeanor)	162.107	N/A	Risk Evaluation	No
Prohibited Acts: Criminal Penalties (felony or misdemeanor)	162.421	Risk Evaluation	Risk Evaluation	No
Making a False Report of Abuse or Neglect (felony)	261.107	Risk Evaluation	Risk Evaluation^	No
Failure to Report; Penalty (felony or misdemeanor)	261.109	Absolute Bar	Risk Evaluation	No
Conduct of Investigation (misdemeanor)	261.302	N/A	Risk Evaluation	No

Offense	Family Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at the Child- Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Interference with Investigation; Criminal Penalty (misdemeanor)	261.3032	N/A	Risk Evaluation	No
Removal of Alleged Perpetrator; Offense (felony or misdemeanor)	262.1015	Absolute Bar	Risk Evaluation	No

**Texas Health and Safety Code**

**Chapter 81 Communicable Diseases**

**Chapter 161 Public Health Provisions**

**Chapter 260 Boarding Home Facilities**

**Chapter 464 Facilities Treating Alcoholics or Drug-Dependent Persons**

**Chapter 481 Texas Controlled Substances Act**

**Chapter 482 Simulated Controlled Substances**

**Chapter 483 Dangerous Drugs**

**Chapter 485 Abusable Volatile Chemicals**

**Chapter 555 State Supported Living Centers**

Offense	Health and Safety Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child- Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Evading or Resisting Apprehension or Transport by Person Subject to Custody or Temporary Detention (misdemeanor)	81.212	N/A	Risk Evaluation	No
Reports of Abuse and Neglect or of Illegal, Unprofessional or Unethical Conduct (misdemeanor)	161.132	N/A	Risk Evaluation	No
Failure to Report: Criminal Penalty (misdemeanor)	260A.012	N/A	Risk Evaluation	No

<b>Offense</b>	<b>Health and Safety Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Bad Faith, Malicious or Reckless Reporting: Criminal Penalty (misdemeanor)	260A.013	N/A	Risk Evaluation	Yes^^
Criminal Penalty (misdemeanor)	464.016	N/A	Risk Evaluation	No
Manufacture or Delivery of Controlled Substances (felony)	481.112	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Manufacture or Delivery of Substance in Penalty Group 1-A (felony)	481.1121	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Manufacture or Delivery of Substance in Penalty Group 2 or 2-A (felony)	481.113	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Manufacture or Delivery of Substance in Penalty Group 3 or 4 (felony)	481.114	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Possession of Substance in Penalty Group 1 (felony)	481.115	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Possession of Substance in Penalty Group 1-A (felony)	481.1151	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Possession of Substance in Penalty Group 2 (felony)	481.116	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Possession of Substance in Penalty Group 2-A (felony or misdemeanor)	481.1161	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Possession of Substance in Penalty Group 3 (felony or misdemeanor)	481.117	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^

Offense	Health and Safety Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Possession of Substance in Penalty Group 4 (felony or misdemeanor)	481.118	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Manufacture, Delivery, or Possession of Miscellaneous Substances (felony or misdemeanor)	481.119	Risk Evaluation if conviction was in the last 10 years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Delivery of Marijuana (felony or misdemeanor)	481.120	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Possession of Marijuana (felony or misdemeanor)	481.121	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Delivery of Controlled Substance or Marijuana to Child (felony)	481.122	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	N/A	No
Possession or Transport of Certain Chemicals with Intent to Manufacture Controlled Substance (felony or misdemeanor)	481.124	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Possession or Transport of Anhydrous Ammonia: Use of or Tampering with Equipment (felony)	481.1245	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	N/A	No
Possession or Delivery of Drug Paraphernalia (felony or misdemeanor)	481.125	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Illegal Barter, Expenditure, or Investment (felony)	481.126	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	N/A	No
Unauthorized Disclosure of Information (felony)	481.127	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Commercial Matters (felony)	481.128	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^

<b>Offense</b>	<b>Health and Safety Code</b>	<b>FELONY</b> (Includes All Levels Unless Otherwise Specified)	<b>MISDEMEANOR</b> (Includes All Levels Unless Otherwise Specified)	<b>If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?</b>
Diversion of Controlled Substance by Restraints, Dispensers, and Certain Other Persons (felony)	481.1285	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Fraud (felony or misdemeanor)	481.129	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Diversion of Controlled Substance Property or Plant (felony)	481.131	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Falsification of Drug Test Results (misdemeanor)	481.133	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Unlawful Transfer or Receipt of Chemical Precursor (felony)	481.136	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Transfer of Precursor Substance for Unlawful Manufacture (felony)	481.137	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	N/A	No
Unlawful Transfer or Receipt of Chemical Laboratory Apparatus (felony)	481.138	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Transfer of Chemical Laboratory Apparatus for Unlawful Manufacture (felony)	481.139	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	N/A	No
Unlawful Delivery or Manufacture with Intent to Deliver; Criminal Penalty (felony)	482.002	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Possession of Dangerous Drug (misdemeanor)	483.041	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Delivery or Offer of Delivery of Dangerous Drug (felony)	483.042	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^

Offense	Health and Safety Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Manufacture of Dangerous Drug (felony)	483.043	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years^	Felony: No Misdemeanor: Yes^^
Forging or altering prescription (misdemeanor)	483.045	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Possession and Use (misdemeanor)	483.031	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Delivery to a Minor (felony or misdemeanor)	485.032	5-Year Bar; Risk Evaluation b/w 5 & 10 Years	Risk Evaluation if conviction was in the last 10 years	Felony: No Misdemeanor: Yes^^
Inhalant Paraphernalia (misdemeanor)	485.033	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Hampering, Obstructing, Tampering with or Destroying Electronic Monitoring Device, Tape or Recording from Resident's Room at State Supported Living Center (misdemeanor)	555.162	N/A	Risk Evaluation	No

**Texas Human Resources Code**  
**Chapter 40 Department of Family and Protective Services**  
**Chapter 42 Regulation of Certain Facilities, Homes and Agencies that Provide Childcare Services**  
**Chapter 43 Regulation of Childcare and Child Placing Agency Administrators**  
**Chapter 48 Investigations and Protective Services For Elderly and Disabled Persons**

Offense	Human Resource Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Confidentiality of Information (misdemeanor)	40.005	N/A	Risk Evaluation	Yes^^
False Report: Criminal Penalty (felony or misdemeanor)	42.0447	Risk Evaluation	Risk Evaluation	Yes^^
Required Background and Criminal History Checks: Criminal Penalties (misdemeanor)	42.056	N/A	Risk Evaluation	No
Administering Medication (misdemeanor)	42.065	N/A	Risk Evaluation	Yes^^
Criminal Penalties (misdemeanor)	42.076	N/A	Risk Evaluation	Yes^^
Criminal Penalty for Operating Daycare Center without Qualified Director (misdemeanor)	42.0761	N/A	Risk Evaluation	Yes^^
Penalty (misdemeanor)	43.012	N/A	Risk Evaluation	Yes^^
Failure to Report; Penalty (felony or misdemeanor)	48.052	Absolute Bar	Risk Evaluation	No
False Report; Penalty (misdemeanor)	48.053	N/A	Risk Evaluation	Yes^^



**Texas Alcoholic Beverage Code  
Chapter 106 Provisions Related to Age**

Offense	Texas Alcoholic Beverage Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Purchase of Alcohol for a Minor; Furnishing Alcohol to a Minor (misdemeanor)	106.06	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^
Prohibited Activities by Persons Younger than 18 (misdemeanor) or Inducing a Minor to Dance with Another in Exchange for a Benefit by Alcoholic Beverage Permittee (misdemeanor)*	106.15	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^

**Texas Business and Commerce Code  
Chapter 110 Computer Technicians Required to Report Child Pornography**

Offense	Texas Business and Commerce Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Failure to Report Child Pornography by Computer Technician (misdemeanor)	110.003	N/A	Risk Evaluation	No

**Texas Code of Criminal Procedure  
Chapter 62 Sex Offender Registration Program**

Offense	Texas Code of Criminal Procedure	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Failure to Comply with Sex Offender Registration Requirements (felony)	62.102	Risk Evaluation	Risk Evaluation^	No

**Texas Civil Practice and Remedies Code  
Chapter 81 Sexual Exploitation by Mental Health Services Provider**

Offense	Texas Civil Practice and Remedies Code	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Failure to Report Possible Sexual Exploitation of Mental Health Patient (misdemeanor)	81.006	N/A	Risk Evaluation if conviction was in the last 10 years	Yes^^

**Any other Title under the Texas Penal Code or any other Texas Code not specifically mentioned above**

Offense	Texas Penal Code or any other various Texas Codes	FELONY (Includes All Levels Unless Otherwise Specified)	MISDEMEANOR (Includes All Levels Unless Otherwise Specified)	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at a Child-Care Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
Varies – Any offense DFPS determines is a financial crime	Varies	Risk Evaluation if conviction was in the last 10 years	No Action Required	Yes^^
Varies	Varies	Risk Evaluation if conviction was in the last 10 years	No Action Required	No

\* Indicates an offense that has been renamed with the Regular Session of the 84<sup>th</sup> Legislature (2015). Both current and previous offense names have been provided on the chart.

\*\* Two separate offenses were given the section number 21.16 as a result of the Regular Session of the 84<sup>th</sup> Legislature (2015).

† These offenses result in a bar based on federal requirements set forth in 42 USC 9858f.658H(c)(1).

†† These convictions result in an absolute bar if it is determined that the offense was committed by an adult offender against a child victim, per federal requirements set forth in 42 USC 9858f.658H(c)(1).

^ While these offenses are not normally prosecuted as misdemeanors, action is described should the offense be reduced to a misdemeanor per TPC 12.44(b).

^^ Even though persons may be present at a child-care operation pending the outcome of the risk evaluation, DFPS may place conditions or restrictions on a person's duties in order for the person to be present at the operation. For example, a person convicted of Driving While Intoxicated may be permitted to be employed but will not be permitted to transport children in the care of the operation.