

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 745 LICENSING
SUBCHAPTER F BACKGROUND CHECKS
DIVISION 2 REQUESTING BACKGROUND CHECKS

§745.609. What types of background checks are required for persons at my operation?

(a) Except as described in subsection (b) of this section, persons required to have a background check under §745.605 of this division (relating to For whom must I submit requests for background checks?) must have the following types of background checks:

(1) As further described in §745.611 of this division (relating to Which persons at my operation require either a fingerprint-based criminal history check or a name-based Texas criminal history check?), either a:

(A) Fingerprint-based criminal history check; or

(B) Name-based Texas criminal history check;

(2) A Central Registry check;

(3) If your operation is a child day-care operation **that is not an employer-based child care operation or a shelter care operation**, a National Sex Offender Registry check for persons who require a fingerprint-based criminal history check under §745.611(a)(1) of this division; and

(4) As further described in §745.613 of this division (relating to Which persons at my operation must have an out-of-state criminal history check, an out-of-state child abuse and neglect registry check, and an out-of-state sex offender registry check?), for certain persons, an:

(A) Out-of-state criminal history check;

(B) Out-of-state child abuse and neglect registry check; and

(C) Out-of-state sex offender registry check.

(b) This rule does not apply to listed family homes that only provide care to related **children**. See §745.615 of this division (relating to What types of background checks are required for persons at listed family homes that only provide care to related **children?**).

§745.611. Which persons at my operation require either a fingerprint-based criminal history check or a name-based Texas criminal history check?

(a) Except as described in subsections (b) and (c) of this section, a person required to have a background check under:

(1) §745.605(a)(1) - (6) of this division (relating to For whom must I submit requests for background checks?) must have a fingerprint-based criminal history check; or

(2) §745.605(a)(7) of this division is only required to have a name-based Texas criminal history check, except the person must have a fingerprint-based criminal history check if:

(A) The person has resided outside of Texas any time during the five-year period prior to the date you submit a request for a background check; or

(B) There is reason to believe the person has criminal history in another state.

(b) A person who is present at the operation to complete a skills practicum or receive observation requires a check described in subsection (a)(2) of this section if:

(1) The skills practicum or observation is a requirement for a high school or college child-care related course that the person is enrolled in at an accredited high school, college, or university;

(2) The person is paired with one or more qualified caregivers, one of whom must always be present when the person interacts with children or observes children; and

(3) The person is only present at the operation in order to fulfill the course requirement and not in any role that would require a fingerprint-based check. For example, the operation may not use the person to meet child-caregiver ratios.

(c) This rule does not apply to listed family homes that only provide care to related children. See §745.615 of this division (relating to What types of background checks are required for persons at listed family homes that only provide care to related children?).

§745.613. Which persons at my operation must have an out-of-state criminal history check, an out-of-state child abuse and neglect registry check, and an out-of-state sex offender registry check?

(a) Except as described in subsections (d) and (e) of this section, a person required to have a background check under §745.605 of this division (relating to For whom must I submit requests for background checks?) must have an out-of-state criminal history check, an out-of-state abuse and neglect registry check, and an out-of-state sex offender registry check:

(1) In each state where the person resided during the preceding five-year period, if the person has lived outside of Texas any time during the five-year period prior to the date you submit a request for a background check; or

(2) In each state where there is reason to believe the person has criminal history, has a child abuse or neglect history, or is registered as a sex offender.

(b) The out-of-state criminal history check must be a fingerprint-based criminal history check if the person currently resides in a state outside of Texas but is employed at an operation regulated by Licensing.

(c) The CBCU will inform a person when the person requires any out-of-state checks. The person must ensure that the person's own out-of-state criminal history check and out-of-state child abuse and neglect registry check are provided to the CBCU. The CBCU will conduct the person's out-of-state sex offender registry check.

(d) A person does not have to have an out-of-state criminal history check if:

(1) The operation submitting the request for a background check is a residential child-care operation, including a child-placing agency, agency foster home, or general residential operation; or

(2) The state where the person resided during the preceding five-year period is participating in the FBI's National Fingerprint File (NFF) program.

(e) This rule does not apply to listed family homes that only provide care to related children, employer-based child care operations, and shelter care operations.

§745.615. What types of background checks are required for persons at listed family homes that only provide care to related children?

For listed family homes that only provide care to related children, persons required to have a background check under §745.605 of this division (relating to For whom must I submit requests for background checks?) must have the following types of background checks:

(1) A name-based Texas criminal history check with a Texas sex offender registry check, except the person must have a fingerprint-based criminal history check if:

(A) The person has resided outside of Texas any time during the five-year period prior to the date you submit a request for a background check; or

(B) There is reason to believe the person has criminal history in another state; and

(2) A Central Registry check.

§745.617. How do I submit a request for a background check?

(a) The process for submitting a request for a background check depends on the type of operation submitting the request:

Figure: 26 TAC §745.617(a)

Type of Operation	Process for Submitting a Request for a Background Check
(1) All operation types except listed family homes	Must submit a request for a background check online through your Licensing account.
(2) Listed family homes	Must submit a request for a background check either: (A) Online through your Licensing account; or (B) By sending in a signed form provided by your local Licensing office or the CBCU.

(b) You do not have to submit a request for a background check for a person who requires a background check under this subchapter because of the person's responsibilities as a Texas Department of Family and Protective Services (DFPS) or Licensing employee or volunteer. The person will have a background check conducted by DFPS or the Texas Health and Human Services Commission as part of the person's application to become an employee or volunteer.