

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER d: LICENSING ADMINISTRATION

PART 385

BACKGROUND CHECKS

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AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10]; Section 5(a)(3)(A) and (F) and (v) of the Children and Family Services Act [20 ILCS 505/5(a)(3)(A) and (F) and (v)]; and Section 55a(34) of the Civil Administrative Code [20 ILCS 2605/55a(34)] Adam Walsh Child Protection and Safety Act (P.L. 109-248).

SOURCE: Emergency rules adopted at 10 Ill. Reg. 19123, effective October 29, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 6398, effective March 31, 1987; amended at 13 Ill. Reg. 5917, effective May 1, 1989; emergency amendment at 20 Ill. Reg. 3930, effective March 1, 1996, for a maximum of 150 days; modified in response to Joint Committee on Administrative Rules objection at 20 Ill. Reg. 5712; emergency expired July 28, 1996; amended at 21 Ill. Reg. 4444, effective April 1, 1997; emergency amendment at 28 Ill. Reg. 1167, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 13432, effective September 30, 2004; amended at 33 Ill. Reg. 4117, effective February 27, 2009; amended at 36 Ill. Reg. 2136, effective January 30, 2012; amended at 37 Ill. Reg. 12827, effective July 30, 2013; amended at 38 Ill. Reg. _____, effective _____.

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Section 385.20 Definitions

"Access to children" means a child care facility employee's duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual and auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

"Assistant" or "child care assistant" means a person who assists a licensed home caregiver in the operation of the day care home, group day care home, or foster family home.

"Authorization for background check" means a complete, signed form prescribed by the Department which authorizes a background check as defined in this Part and submission of fingerprints, if required. An authorization for a background check may be used for the initial and all subsequent background checks required to determine compliance with the requirements of this Part.

"Background check" means:

a criminal history check via fingerprints of persons age ~~17~~18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records or the National Crime Information Database (NCID) when applicable for prospective foster and adoptive parents; and

a check of the Child Abuse and Neglect Tracking System (CANTS/SACWIS) and other state child protection systems, or the National Registry, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

a check of the Illinois Sex Offender Registry and the National Sex Offenders Registry, as appropriate.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Illinois Department of Children and Family Services within-

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~~This system is being replaced by~~ the Statewide Automated Child Welfare Information System (SACWIS).

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. *"Child care facility"* includes a relative who is licensed or who applies for a license as a foster family home under Section 4 of the Child Care Act of 1969. (Section 2.05 of the Child Care Act of 1969) A child care facility also means those described in the Child Care Act, including but not limited to any child care institution, maternity center, child welfare agency, day care center, day care agency, group home, foster family home, day care home, group day care home, partially exempt secure child care facility or youth emergency shelter.

"Conditional employee" means an individual (including any substitute or assistant) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions that allow access to children and who has commenced such duties while awaiting the results of the background check required by this Part.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Date of notice" means the date of the written notice to a license holder that all persons subject to background checks, as defined in this Section, must authorize such checks and submit to fingerprinting, if required.

"Denial of application for license" means the refusal to grant a license or permit to a person, group of persons, agency, association or organization that applied for a license to operate a child care facility.

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

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"Director" means the Director of the Illinois Department of Children and Family Services.

"Employee" means any staff person employed by a child care facility, and includes any substitute or assistant. This definition includes administrative, professional and other support staff who have access to children.

"Final placement decision" means the decision made by the Department, within 90 days after the initial placement of a child with a relative, to leave or remove the child in the relative home based on the evaluation of the results of the criminal background check of the relative and household members and based on the best interests of the child.

"Governing body" means the board of directors of a corporation; otherwise, the term means the owners or other persons, agency, association or organization legally responsible for the operation of the child care facility.

"Illinois Sex Offender Registry" means the registry of any person convicted of a felony sex crime or an attempt to commit a felony sex crime operated and maintained by the Illinois State Police.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant" means, for purposes of background checks, the operator or person with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969)

"Licensing entity" means the Department or a supervising agency recommending the license or processing the employment application.

"Licensing representative" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

"Member of the household" means a person who resides in a family home as evidenced by factors, including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address. In addition, a member of the household includes stepchildren and/or children relative to the foster parent

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or child care provider who frequent the home as part of regular visitation but do not reside in the home full-time.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601])

"Multi-function agency" means an agency, association, or other organization that operates a child care facility, child welfare agency, or day care agency in addition to other services not subject to licensure under the Child Care Act of 1969. A child care facility, child welfare agency, or day care agency may consist of distinct units, divisions, or departments of a multi-function agency. In a multi-function agency, only the persons with direct authority for the operations of the child care facility and those who have access to children, as defined in this Section, are subject to the background check requirements of this Part.

"National Crime Information Database" or "NCID" means the National Crime Information Center and its incorporated criminal history databases.

"National Registry" means an electronic national registry of substantiated cases of child abuse and neglect supplied by the states, created by the Secretary of Health and Human Services in consultation with the Attorney General.

"National Sex Offender Registry" means an electronic national registry, operated and maintained by the United States Department of Justice, of any person convicted of a felony sex crime or an attempt to commit a felony sex crime in any state.

"Non-Licensed Service Provider" means an individual or entity that contracts with the Department to provide child welfare services that enable the Department to perform its duties under the Abused and Neglected Child Reporting Act [325 ILCS 5], the Child Care Act of 1969 [225 ILCS 10], and the Children and Family Services Act. [20 ILCS 505]

It also includes a person who provides child care in his or her home to a child for whom the Department is legally responsible on a regular basis, such as weekly or several times per week and care for no more than 3 children under the age of 12 or that receive only children from a single household, for less than 24 hours per day. The three children include the family's own children or adoption children

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and any other persons under the age of 12 whether related or unrelated to the service provider [89 ILCS 377.3(d)].

"Operator" means any person responsible for the day-to-day management of the child facility.

"Parental involvement" means parental assistance with a child care program such as participation in field trips, parties, attendance on special days for special events, or parental support and cooperation in the classroom.

"Persons subject to background checks" means:

the operators of the child care facility;

all current and conditional employees of the child care facility;

all direct child welfare agency employees [89 ILCS 412];

any person who is used to replace or supplement staff;

any person who has access to children, as defined in this Section; and

any person, including non-licensed service providers, who provides services that allow unsupervised access to children if the requirement for background checks is a condition of a contract or agreement or is required otherwise under 89 Ill. Adm. Code 357 (Purchase of Service).

If the child care facility operates in a family home, the license applicants, ~~and~~ all members, and prospective members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

Non-licensed service providers, who on a regular basis, provide care in the provider's home to a child for whom the Department is legally responsible and all members of the household age 13 or over are subject to background checks.

For a final placement decision in a relative home, the relative and all members of the household age ~~17~~18 and over are subject to criminal background checks (see 20 ILCS 505/5(v-1)).

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"Prospective member of the household" means a person age 13 or older who plans to move into a licensed foster family home.

"Replacement or supplemental staff" means any paid or unpaid individual who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children in a licensed child care facility outside the visual or auditory supervision of facility staff.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services, replacing the CANTS system.

"Seasonal child care program" means a child care facility that operates a seasonal program, such as summer-only or migrant Head Start program, that is subject to licensing by the Department.

"State Central Register" means the child abuse and neglect data system maintained by the Department pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 40].

"Substitute" means a permanent or temporary employee who is used to replace or supplement regular staff.

"Supervising agency" means a licensed child welfare agency, a licensed day care agency, a license exempt agency, or the Department.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 385.30 Applicability of This Part

- a) **Applicability**
All licensed child care facilities shall submit completed, signed authorizations for background checks for all persons subject to background checks as defined in Section 385.20.
- b) **License Renewals**
A child care facility license shall not be renewed until the results of the background check (CANTS/SACWIS, Illinois Sex Offender Registry, and criminal history) have been received for the operator of the child care facility. However, if complete, signed authorizations have been submitted and fingerprints

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obtained for all persons subject to background checks, as defined in Section 385.20, and a check of the CANTS/SACWIS and Illinois Sex Offender Registry is completed, renewal of the license shall not be delayed pending receipt of the results of the criminal background check for other persons subject to background checks.

c) Scope of Background Checks

- 1) All persons subject to background checks pursuant to this Part shall be processed through the CANTS/SACWIS, the Illinois Sex Offender Registry and LEADS. Fingerprints of all persons age ~~17~~18 and over shall be submitted to the Illinois State Police via the fingerprint vendor stipulated by the Department for a criminal history check.
- 2) In addition, foreign nationals who have not resided in Illinois for all of the preceding 3 years shall submit to their prospective employer (if seeking employment) or licensing representative (if seeking a license to operate a child care facility) a copy of their valid passport and current visa. A copy of the valid passport and current visa shall be attached to the authorization for background check submitted to:

Department of Children and Family Services
Central Office of Licensing
406 E. Monroe Street, Station #60
Springfield, Illinois 62701

All facsimile transmissions shall be sent to the Employment FAX Line at (217)785-6368.

- 3) In addition, each owner of a for-profit corporation, as a condition of license renewal, must *certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* [5 ILCS 100/10-65(c)]
- 4) Fingerprints for the following persons age ~~17~~18 and over shall be submitted to the Federal Bureau of Investigation (FBI) for a search of its records for evidence of prior criminal activity:

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- A) all applicants for foster family home licensure and members of the household;
 - B) all relative caregivers and members of the household prior to a final placement decision in a relative home [20 ILCS 505/5(v-1)];
 - C) persons who have a record of criminal activity that may impact their suitability for licensure/employment by their own acknowledgment or according to the records of the Illinois State Police; ~~and~~
 - D) persons who have resided outside the State of Illinois for any part of the preceding three years; and
 - E) a non-licensed service provider who has access to children as defined in Section 385.20 and all members of the provider's household age 13 and over;
- 5) For *prospective foster or adoptive parents or other adult living in the home who resided in another state in the preceding 5 years, the Department shall request a check of that other state's child abuse and neglect registry and the National Sex Offender Registry.* [20 ILCS 505/5(v-2)]
- d) A Condition of Employment
- 1) As a condition of employment in a licensed child care facility in a position that allows access to children, all persons subject to background checks, as defined in Section 385.20, shall complete and sign authorizations for background checks and submit to fingerprinting, if required. This applies to all current and conditional employees subject to background checks, as defined in Section 385.20, and to any individual used as replacement or supplemental staff in the direct care and supervision of children.
 - 2) Complete, signed authorizations for background checks must be submitted to:

Department of Children and Family Services
Central Office of Licensing
406 E. Monroe Street, Station #60

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Springfield, Illinois 62701

All such authorizations must be postmarked within two business days after the person's employment or use in a role as replacement or supplemental staff. All facsimile transmissions shall be sent to the Employment Fax Line at (217) 785-6368.

e) Child Care Facilities that Operate Within a Family Home

If the child care facility operates in a family home, adult members of the household age ~~17~~18 and older shall be fingerprinted to be screened for prior criminal convictions and current pending criminal charges in accordance with the requirements of this Part. All household members age 13 and over shall be screened for a history of child abuse or neglect and for inclusion in the Illinois Sex Offender Registry. These background checks are required even if members of the household usually are not present in the home during the hours the child care facility is in operation.

f) Programs Operated Under the Auspices of Child Welfare or Day Care Agencies
The background check requirements of this Part apply to:

- 1) employees of a child welfare agency who are involved in the placement in, licensure of, or supervision of foster family or adoptive homes, relative homes, group homes, child care institutions, youth emergency shelters, or independent living arrangements; and
- 2) employees of a child welfare agency or day care agency who are involved in the licensure or supervision of licensed day care homes; and
- 3) persons used as replacement or supplemental staff identified in subsection (f)(1) or (2).

g) Service Providers

As a condition of a contract or agreement, including non-licensed service providers, or as otherwise required under 89 Ill. Adm. Code 357 (Purchase of Service), the Department may require a person who provides services that allow unsupervised access to children to authorize a background check under this Part.

h) Issuance of Permits

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A permit may be issued when:

- 1) the facility operator has cleared a complete background check (criminal history, CANTS/SACWIS, and Illinois Sex Offender Registry); and
- 2) if a for-profit corporation or other for-profit legal entity, the owner has certified that he or she is current or not more than 30 days delinquent in complying with a child support order; and
- 3) all other persons subject to background checks have been fingerprinted (if required), as verified by a fingerprint receipt, and have obtained their CANTS/SACWIS, and Illinois Sex Offender Registry clearances; and
- 4) the facility is in compliance with all other applicable licensing requirements for issuance of a permit.

i) Work Study Students

No criminal history check is required unless work study students are used as replacement or supplemental staff, as defined in Section 385.20. However, CANTS/SACWIS and Illinois Sex Offender Registry checks must be completed for all work study students.

j) Volunteers

No background check (CANTS/SACWIS, Illinois Sex Offender Registry, criminal history) is required unless volunteers are used as replacement or supplemental staff, as defined in Section 385.20.

k) Parental Involvement

Parental involvement in a child care facility program does not require a background check unless the parent is used as replacement or supplemental staff, as defined in Section 385.20. [225 ILCS 10/4.2(b)] Nothing in this Part is intended to prohibit a parent from being left alone unsupervised with only his or her own children.

l) Responsibility for Cooperation

Child care facilities shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when

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scheduled by the Department or its authorized representatives. Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license unless the child care facility can demonstrate that it took reasonable measures to insure cooperation with the fingerprinting process. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:

- 1) death in the family of the person; or
- 2) serious illness of the person or illness in the person's immediate family; or
- 3) weather or transportation emergencies.

m) Limitations on Criminal Offenders

Persons age ~~17~~18 and over who have been convicted of committing or attempting to commit the offenses in Section 385.60(a) or (b) (when applicable) and when the Department becomes aware of persons age 13 and over who have been tried as an adult and convicted for the crimes identified in Section 385.60(a) or (b) shall not:

- 1) receive a license from the Department to operate a child care facility or have such a license renewed; or
- 2) be employed by a child care facility licensed by the Department in a position which allows access to children; or
- 3) be a member of the household in a family home in which a child care facility operates; or
- 4) obtain a contract or agreement from the Department to provide services which allow access to children if the requirement for such background checks is a condition of the contract or agreement.

n) Limitations on Perpetrators of Child Abuse/Neglect

Persons who have been indicated as the perpetrator of any of the child abuse/neglect allegations identified in Section 385.50(a) are presumed to be unfit for service that allows access to children. These indicated perpetrators are limited in the same manner as the criminal offenders in subsection (m) unless the Director

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or designee has waived in writing the presumption of unsuitability. Such waivers may be requested in writing in accordance with Section 385.50(b).

o) No Charge for Background Checks

There is no charge to license applicants or licensed child care facilities for the background checks which are required by this Part.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 385.40 Authorization for Background Checks

a) Persons Required to Authorize Background Checks

- 1) All persons (including non-licensed service providers) required to authorize background checks (as defined in Section 385.20) must authorize such checks as a condition of employment and continuing employment, initial license or the renewal of an existing license, continued licensing, or when required for a contract with the Department.
- 2) Each owner of a child care facility must certify, under penalty of perjury on forms prescribed by the Department, *that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* (Section 10-65(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-65(c)])

b) Contents of Authorization

The authorization required by this Section shall be on forms prescribed by the Department and shall include:

- 1) identifying information consisting of name, address, Social Security number, date of birth, height, weight, hair and eye color, previous names and addresses;
- 2) a certification under penalty of perjury identifying any prior criminal convictions other than a minor traffic violation, as defined by this Part, and of any pending criminal charges; and

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- 3) authorization for the Department to release the results of the background check to the governing body or employer or, in the case of a group home or a child care facility operating in a family home, to the supervising agency for the child care facility.

c) Employees Absent from Active Duty

For purposes of this Part only, employees who have been separated from a child care facility licensed by the Department for six months or longer (for reasons other than vacation, sabbatical leave, sick leave or maternity leave) shall no longer be considered current employees. Upon their return to active duty, such individuals shall be required to again authorize a background check pursuant to this Part.

d) Transfers Between Licensed Facilities

A facility that hires an employee who has cleared a complete background check consisting of a criminal history check and a CANTS/SACWIS check and a check of the Illinois Sex Offender Registry at a facility licensed by the Department shall submit a new signed authorization of background check for the employee. Such an employee who has cleared a background check as described in this subsection does not need to be fingerprinted again unless the Department specifically requests new prints (e.g., when fingerprints cannot be found).

e) Operation of Seasonal Programs

Child care facilities that operate seasonal programs, such as migrant Head Start or other summer-only programs, hire staff on a seasonal basis for work in the program and then discharge or lay off the staff until the beginning of the next season. When the time period between the end of one seasonal program and the beginning of the next program is more than six months, a check of the CANTS/SACWIS and the Illinois Sex Offender Registry must be completed (if the individual has access to children) before the individual begins his or her duties for the next season.

f) Commingling Not Permitted

If a child care facility operates within the same building as other agencies or organizations or is part of a multi-function agency that offers services which are not subject to Department licensing, the child care facility shall develop a plan to limit access to children receiving care in the licensed facility by individuals who

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are not subject to the background check requirements of this Part. The plan shall be approved in writing by the governing body and the supervising licensing agency, before a license is recommended.

g) Conditional Employment

Individuals hired to begin employment who have authorized the background check required by this Part may be employed by a child care facility on a conditional basis pending the outcome of the required background check. The form authorizing such a background check shall be submitted to Department of Children and Family Services as indicated in Section 385.30(d)(2).

h) Limitations on the Use of Conditional Employees

Conditional employees shall not be left alone with children outside the visual and auditory supervision of staff until they have cleared a check of CANTS/SACWIS and the Illinois Sex Offender Registry.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 385.APPENDIX A Criminal Convictions Preventing Licensure, Employment, Residence in a Family Home in Which a Child Care Facility Operates, or Placement with Relatives

a) Criminal Convictions Preventing Licensure, Employment, or Residence in a Family Home in Which a Child Care Facility Operates

If any person subject to background checks has been included in the Illinois Sex Offender Registry or convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 2012 [720 ILCS 5] or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to: receiving a license or permit to operate as a child care facility and renewal of an existing license to operate a child care facility; residing in a family home in which a child care facility operates; obtaining employment or continuing in employment in a licensed child care facility which allows access to children as part of the duties; and obtaining a contract or agreement providing services on behalf of the Department that allows unsupervised access to children.

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In addition to the list of crimes in this Appendix A, no applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in 89 Ill. Adm. Code 402.Appendix A (Criminal Convictions Which Prevent Licensure), which is a more inclusive list of crimes.

The offenses that serve as a bar to licensure, residence in a family home in which a child care facility operates, employment that allows access to children in any child care facility subject to licensing, or providing services that allow unsupervised access to children include:

OFFENSES DIRECTED AGAINST THE PERSON

HOMICIDE

- *Murder*
- *Solicitation of murder*
- *Solicitation of murder for hire*
- *Intentional homicide of an unborn child*
- *Voluntary manslaughter of an unborn child*
- *Involuntary manslaughter*
- *Reckless homicide*
- *Concealment of a homicidal death*
- *Involuntary manslaughter of an unborn child*
- *Reckless homicide of an unborn child*
- *Drug induced homicide [225 ILCS 10/4.2(b)]*

KIDNAPPING AND RELATED OFFENSES

- *Kidnapping*
- *Aggravated kidnapping*
- *Aggravated unlawful restraint*
- *Forcible detention*

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- *Child abduction*
- *Aiding and abetting child abduction*
- *Harboring a runaway [225 ILCS 10/4.2(b)]*

SEX OFFENSES UNDER ARTICLE 11 OF THE CRIMINAL CODE OF 1961 OR 2012, EXCEPT OFFENSES DESCRIBED IN SECTIONS ~~11-7, 11-8, 11-12, 11-13, 11-35, 11-40 AND 11-45~~

- *Indecent solicitation of a child*
- *Indecent solicitation of an adult*
- *Solicitation to meet a child*
- *Public indecency*
- *Sexual exploitation of a child*
- *Permitting sexual abuse of a child*
- *Custodial sexual misconduct*
- *Presence within school zone by child sex offenders*
- *Sexual predator and child sex offender*
- *Sexual misconduct with a person with a disability*
- ~~*Approaching, contacting, residing, or communicating with a child within a public park zone by child sex offenders*~~
- *Sexual relations within families*
- *Prostitution*
- ~~*Soliciting for a prostitute*~~
- ~~*Soliciting for a juvenile prostitute*~~
- *Solicitation of a sexual act*
- *Promoting prostitution*
- *Promoting juvenile prostitution*
- *Pandering*
- ~~*Keeping a place of prostitution*~~
- ~~*Keeping a place of juvenile prostitution*~~

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- *Patronizing a prostitute*
- *Patronizing a minor engaged in prostitution*
- *Pimping*
- ~~*Juvenile pimping*~~
- ~~*Exploitation of a child*~~
- *Obscenity*
- *Child pornography*
- *Duty of commercial film and photographic print processors or computer technicians to report sexual depiction of children*
- *Harmful material*
- *Tie-in sales of obscene publications to distributors*
- *Posting of identifying or graphic information on a pornographic internet site or possessing graphic information with pornographic material* [720 ILCS 5/Art. 11]
- *Child photography by sex offender*
- *Grooming*
- *Traveling to meet a minor*

BODILY HARM

- *Heinous battery*
- *Aggravated battery with a firearm*
- *Aggravated battery of a child*
- *Tampering with food, drugs, or cosmetics*
- *Hate crime*
- *Stalking*
- *Aggravated stalking*
- *Threatening public officials*
- *Home invasion*
- *Vehicular invasion*

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- *Drug induced infliction of great bodily harm*
- *Criminal sexual assault*
- *Aggravated criminal sexual assault*
- *Predatory criminal sexual assault of a child*
- *Criminal sexual abuse*
- *Aggravated sexual abuse*
- *Aggravated criminal sexual abuse*
- *Criminal transmission of HIV*
- *Criminal abuse or neglect of an elderly or disabled person*
- *Child abandonment*
- *Endangering the life or health of a child*
- *Ritual mutilation*
- *Ritualized abuse of a child*
- ~~*Any violation of the Methamphetamine Control and Community Protection Act [720 ILCS 646] [225 ILCS 10/4.2(b)]*~~

Final approval for licensure shall not be granted if the record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children, or for a crime involving violence, including rape, sexual assault or homicide, but not including other felony convictions for physical assault or battery, or if there is a felony conviction for physical assault, battery or a drug-related offense committed within the past 5 years. [20 ILCS 505/5(v-1) and (v-2)]

Waiver of Convictions for Placement with Relatives

Criminal convictions that were waived by the Director for the initial placement in accordance with provisions in Section 7(b) of the Children and Family Services Act [20 ILCS 505/7(b)] and 89 Ill. Adm. Code 301.Appendix A(b) and (c) are deemed waived for a final placement decision. If additional criminal convictions appear as a result of the fingerprint results, a new waiver request shall be submitted to the Director or designee.

- b) **Additional Convictions that Bar Licensure of or Employment in a Child Care Facility**

In addition to the requirements of subsection (a), no new applicant and, on the date of licensure renewal, no current licensee may operate or receive a license

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from the Department to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar to and bear a substantial relationship to any of the following offenses:

OFFENSES DIRECTED AGAINST THE PERSON

BODILY HARM

- *Felony aggravated assault*
- *Vehicular endangerment*
- *Felony domestic battery*
- *Aggravated battery*
- *Heinous battery*
- *Aggravated battery with a firearm*
- *Aggravated battery of an unborn child*
- *Aggravated battery of a senior citizen*
- *Intimidation*
- *Compelling organization membership of persons*
- *Abuse and gross neglect of a long term care facility resident*
- *Felony violation of an order of protection*

OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- *Felony unlawful use of weapons*
- *Aggravated discharge of a firearm*
- *Reckless discharge of a firearm*
- *Unlawful use of metal piercing bullets*
- *Unlawful sale or delivery of firearms on the premises of any school*
- *Disarming a police officer*
- *Obstructing justice*

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- *Concealing or aiding a fugitive*
- *Armed violence*
- *Felony contributing to the criminal delinquency of a juvenile*

DRUG OFFENSES

- *Possession of more than 30 grams of cannabis*
- *Manufacture of more than 10 grams of cannabis*
- *Cannabis trafficking*
- *Delivery of cannabis on school grounds*
- *Unauthorized production of more than 5 cannabis sativa plants*
- *Calculated criminal cannabis conspiracy*
- *Unauthorized manufacture or delivery of controlled substances*
- *Controlled substance trafficking*
- *Manufacture, distribution or advertisement of look-alike substances*
- *Calculated criminal drug conspiracy*
- *Street gang criminal drug conspiracy*
- *Permitting unlawful use of a building*
- *Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property*
- *Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances*
- *Delivery of controlled substances*
- *Sale or delivery of drug paraphernalia*
- *Felony possession, sale, or exchange of instruments adapted for use of a controlled substance or cannabis by subcutaneous injection*
- *Felony possession of a controlled substance [225 ILCS 10/4.2(b-1)]*
- *Any violation of the Methamphetamine Control and Community Protection Act [720 ILCS 646] [225 ILCS 10/4.2(b)]*

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- c) In addition to any other provision of this Section, for applicants with access to confidential financial information or who submit documentation to support billing, no applicant whose initial application was considered after July 31, 2012 may receive a license from the Department or a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following felony offenses:
- 1) *financial institution fraud under Section 17-10.6 of the Criminal Code of 2012;*
 - 2) *identity theft under Section 16-30 of the Criminal Code of 2012;*
 - 3) *financial exploitation of an elderly person or a person with a disability under Section 17-56 of the Criminal Code of 2012;*
 - 4) *computer tampering under Section 17-51 of the Criminal Code of 2012;*
 - 5) *aggravated computer tampering under Section 17-52 of the Criminal Code of 2012;*
 - 6) *computer fraud under Section 17-50 of the Criminal Code of 2012;*
 - 7) *deceptive practices under Section 17-1 of the Criminal Code of 2012;*
 - 8) *forgery under Section 17-3 of the Criminal Code of 2012;*
 - 9) *State benefits fraud under Section 17-6 of the Criminal Code of 2012;*
 - 10) *mail fraud and wire fraud under Section 17-24 of the Criminal Code of 2012;*
 - 11) *theft under Section 16-1(1.1) through (11) of the Criminal Code of 2012. [225 ILCS 10.4.2(b-1.5)]*
- d) Exception Applicable to Child Care Facilities Other than Foster Family Homes Notwithstanding subsection (a), *the Department may issue a new child care facility license or may renew the existing child care facility license of an applicant, or an applicant who has an adult residing in a home child care facility who was convicted of an offense described in subsection (b), or the Department may approve the employment of a person by a child care facility who was*

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convicted of an offense described in subsection (b), provided that all of the following requirements are met:

- 1) *The relevant criminal offense or offenses occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of application or renewal, unless the applicant or prospective employee has passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense;*
- 2) *The Department must conduct a background check and assess all convictions and recommendations of the child care facility in accordance with Section 385.60(d), (e) and (f) and determine if a waiver is applicable in accordance with subsection (d)(1);*
- 3) *The applicant meets all other requirements and qualifications to obtain a license to operate the pertinent type of child care facility. [225 ILCS 10/4.2(b-2)*

(Source: Amended at 38 Ill. Reg. _____, effective _____)