

December 16, 2014

The Health and Human Services Commission adopts, on behalf of the Department of Family and Protective Services (DFPS), an amendment to §743.105 without changes to the proposed text published in the November 14, 2014, issue of the *Texas Register* (39 TexReg 8942). The justification for the amendment is to (1) clarify that shelter care operations must ensure criminal background check information is kept confidential; and (2) update the rule reference.

No comments were received regarding adoption of the amendment.

Title 40, Social Services & Assistance, Part 19, Dept. of Family and Protective Services
Chapter 743, Minimum Standards for Shelter Care
Subchapter B, Personnel and Training
TAC Section Number(s) §743.105

Final Action

201405016 TRD Docket Number
For Proposed Action

11/14/14 Proposed Action
Publication Date

X Amendment

X Adopted Without Changes

Effective Date:

X Other (Specify)
March 1, 2015

The amendment is adopted under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Family and Protective Services Council shall study and make recommendations to the Executive Commissioner and the Commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

The amendment implements HRC §§40.005, 42.042, and 42.056.

§743.105. What are the background check requirements?

(a) - (c) (No change.)

(d) You must request required background checks based on the following rules:

(1) (No change.)

(2) §745.625 of this title (relating to When must I submit a request for an initial or renewal background check?) other than §745.625(a)(7) of this title;

(3) (No change.)

(4) §745.630 of this title (relating to If a fingerprint-based criminal history check has already been completed on a person, must that person submit new fingerprints at the time my initial or renewal background check on that person is due?).

(e) You must ensure all information related to background checks is kept confidential as required by the Human Resources Code §40.005(d) and (e).

(f) You may allow the person to provide direct care or have direct access to a child in care after you request a background check unless or until DFPS notifies you that the person may not be present at your operation.

(g) Background check results will be addressed based on the rules found in the following divisions of Chapter 745, Subchapter F of this title (relating to Background Checks):

(1) Division 3 (relating to Criminal Convictions and Central Registry Findings of Child Abuse or Neglect);

(2) Division 4 (relating to Evaluation of Risk Because of a Criminal Conviction or a Central Registry Finding of Child Abuse or Neglect);

(3) Division 5 (relating to Designated and Sustained Perpetrators of Child Abuse or Neglect); and

(4) Division 6 (relating to Immediate Threat or Danger to the Health or Safety of Children).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on _____.