

The Health and Human Services Commission adopts, on behalf of the Department of Family and Protective Services (DFPS), an amendment to §745.657, without changes to the proposed text published in the February 13, 2015, issue of the *Texas Register* (40 TexReg 679). This amendment will be effective June 1, 2015.

The justification for the amendment is to (1) add "labor trafficking" and "sex trafficking" to the list of Central Registry findings that will permanently bar a person from being present at an operation. "Labor trafficking" and "sex trafficking" were added to the definition of child "abuse" in §261.001 of the Texas Family Code by Senate Bill 24, 82nd Legislative Session; (2) clarify that "abandonment" is also a type of child "neglect" finding that may affect a person's ability to be present at an operation; and (3) clarify the definition of "regularly". The changes are in the table below.

The amendment will function by: (1) reducing risk to children by including Central Registry findings regarding trafficking as bars to being present at an operation while children are in care; and (2) providing the public a better understanding of the rules by clarifying definitions.

No comments were received regarding adoption of the amendment.

§745.657. What types of Central Registry findings may affect a person's ability to be present at an operation?

(a) Except for a person described in subsection (b) of this section, the following chart lists the types of Central Registry findings that may affect a person's ability to be present at an operation. The chart specifies whether a person with a finding is barred from being present at an operation or is eligible for a risk evaluation, and whether a person eligible for a risk evaluation may be present at an operation pending the outcome of the risk evaluation:

Types of Central Registry Findings for Child Abuse or Neglect	Is This Person Eligible for a Risk Evaluation?	If This Person Is Eligible for a Risk Evaluation, May the Person be Present at an Operation While Children are in Care Pending the Outcome of the Risk Evaluation?
(1) A Sustained DFPS Finding of Physical Abuse.	Except for a person described in subsection (b) of this section, this person is permanently barred from being present at an operation while children are in care. Persons described in subsection (b) of this	Except for a person described in subsection (b) of this section, this is not applicable, because this person is not eligible for a risk evaluation. This person must not be present at an operation while children are in care. Persons described in subsection (b) of this section cannot be present at an operation while children are in care pending a risk

	section are eligible for a risk evaluation.	evaluation. However, if the risk evaluation is approved, then they may be present at the operation.
(2) A Sustained DFPS Finding of Sexual Abuse.	No, this person is permanently barred from being present at an operation while children are in care.	Not applicable, because this person is not eligible for a risk evaluation. This person must not be present at an operation while children are in care.
(3) A Sustained DFPS Finding of Labor Trafficking.	No, this person is permanently barred from being present at an operation while children are in care.	Not applicable, because this person is not eligible for a risk evaluation. This person must not be present at an operation while children are in care.
(4) A Sustained DFPS Finding of Sex Trafficking	No, this person is permanently barred from being present at an operation while children are in care.	Not applicable, because this person is not eligible for a risk evaluation. This person must not be present at an operation while children are in care.
(5) A Sustained DFPS Finding of Emotional Abuse.	Yes	Yes, (i) if the person continued to work at the operation pending the outcome of due process for the designated finding because we had not determined the person's presence at the same operation was an immediate threat or danger to the health or safety of children; or (ii) if we previously approved a risk evaluation without conditions for the same finding, the more recent check does not reveal new information about the finding, and the circumstances of the person's contact with children at the operation are the same as when we approved the risk evaluation.
(6) A Sustained DFPS Finding of Neglect (including abandonment,	Yes	Yes, (i) if the person continued to work at the operation pending the outcome of due process for the designated

neglectful supervision, physical neglect, medical neglect, and refusal to accept parental responsibility).		finding because we had not determined the person's presence at the same operation was an immediate threat or danger to the health or safety of children; or (ii) if we previously approved a risk evaluation without conditions for the same finding, the more recent check does not reveal new information about the finding, and the circumstances of the person's contact with children at the operation are the same as when we approved the risk evaluation.
(7) A DFPS Finding, Not Already Sustained, of Any Types of Child Abuse or Neglect Previously Mentioned In This Chart, Where We Have Determined the Presence of the Person at an Operation Is an Immediate Threat or Danger to the Health or Safety of Children.	No, this person is temporarily barred from being present at an operation while children are in care.	Not applicable, because this person is not eligible for a risk evaluation. This person must not be present at an operation while children are in care. Note: The removal from contact with children is not permanent until the finding is sustained.
(8) A Finding of Abuse or Neglect from another state or jurisdiction, regardless of whether the finding is sustained.	The person's eligibility for a risk evaluation is the same as the relevant sustained DFPS finding noted in sections (1) - (6) of this chart.	The person's ability to be present at an operation while children are in care pending the outcome of a risk evaluation is the same as the relevant sustained DFPS finding noted in sections (1) - (6) of this chart.

(b) A prospective foster or adoptive parent, or any person that is required to undergo a background check because of the foster or adoptive parent application, is eligible for a risk evaluation for a sustained finding of physical abuse if:

- (1) It has been more than five years since the date of the physical abuse finding; and

(2) The prospective foster or adoptive parent is related to or has a significant longstanding relationship with the foster or adoptive child.

(c) This rule does not apply to a person who requires a background check under this subchapter because of the person's responsibilities as a DFPS employee or volunteer. The person's background check will be conducted under the criteria used by DFPS and the Human Resources Department of the Health and Human Services Commission.

This agency certifies that legal counsel has reviewed the adoption and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on April 4, 2015.