



# OLR RESEARCH REPORT

September 21, 2012

2012-R-0427

## **CHILD CARE PROVIDER BACKGROUND CHECKS**

By: James Orlando, Associate Analyst

You asked for a description of the process for background checks for child care providers.

### **SUMMARY**

The Department of Public Health (DPH) licenses child day care centers, group day care homes, and family day care homes. State law requires the DPH commissioner, within available appropriations, to require state and national criminal background checks on all prospective employees for a child caring position in these settings and for initial applicants for a family day care home license ([CGS §§ 19a-80, -87b](#)). For family day care homes, DPH also requires background checks for household members age 16 or older.

The background check process requires the person to submit fingerprints to DPH; the background checks are conducted by the state police and FBI. After the checks are completed, if DPH receives results indicating a criminal background, the department seeks more information from the employer or employee to determine if the criminal history renders the person unsuitable for employment. Information obtained through a criminal background check can impact not only the individual's employment, but the licensing of the facility itself (e.g., if a facility employs someone whom DPH has determined should not be employed due to his or her criminal background).

For child day care centers, group day care homes, and family day care homes, the commissioner must also request a check of the state child abuse registry. This report focuses on criminal background checks and reporting of criminal convictions, rather than checks of the child abuse registry and investigation of abuse involving child care services. If you would like information on that topic, please let us know. For more information on the child abuse registry, see OLR Report [2012-R-0114](#).

## **BACKGROUND CHECK PROCESS**

We spoke with a DPH representative about the background check process. The individual seeking employment as a child care provider must submit fingerprint cards to DPH. If an employee leaves one facility and takes employment with another, he or she must obtain a new background check. In addition to other possible fees, the fingerprinting fee is \$16.50. The individual is responsible for the cost, unless the employer is willing to pay it on the person's behalf.

After DPH receives the fingerprint cards, it sends the cards to the state police, who conduct the state background check. The state police then send the cards to the FBI, who conduct the national check. After the checks are completed, the results come back to DPH.

If the FBI background check shows a criminal background, DPH contacts the person directly. If the state background check shows a criminal background, DPH contacts the (1) employer (if it is a child day care center or group day care home) or (2) person directly (in the case of a family day care home).

DPH then requests additional information to determine if the person is suitable for child care employment despite his or her criminal record. If the employer was contacted and wishes to go forward with the person's employment, the employer will collect this information from the employee and forward it to DPH. If the person was contacted directly, DPH collects the information from the individual. The requested information is about the conviction, whether the person has completed any probation or required rehabilitation, and the relationship of the actions to the job, among other things.

There are no convictions that automatically bar someone from working as a child care provider. However, as explained below, the employer's license could be affected if the facility employs someone that DPH determines is not fit for such employment due to criminal history.

## **EFFECT OF CRIMINAL HISTORY ON FACILITY LICENSING**

The DPH commissioner can refuse to issue, revoke, or suspend a child day care center or group day care home license or take other regulatory action, if the person who owns, conducts, maintains, or operates the facility, or someone employed at the facility in a position connected with child care has (1) been convicted of specified crimes or (2) a criminal record that the commissioner reasonably believes makes the person unsuitable to own, conduct, maintain, operate, or be employed by such a facility ([CGS § 19a-87a](#)).

Similar provisions apply for family day care homes. The commissioner's authority to take such actions extends not just to licensees but to approvals of someone as an assistant or substitute staff member in the home. The commissioner's authority also applies if certain crimes were committed by someone residing in the household ([CGS § 19a-87e](#)).

The list of crimes that can disqualify a family day care home for licensure specifically includes certain drug crimes, while these crimes are not on the list for day care centers or group day care homes. However, the commissioner could presumably still disapprove a day care center or group day care home's licensure due to drug crimes under her general authority to determine that a criminal record makes the person unsuitable to own, conduct, maintain, operate, or work at a child care facility.

DPH must comply with the law's general restrictions regarding license refusals for criminal convictions ([CGS §§ 46a-79 to -81](#)). Information on that topic is available in OLR Report [2012-R-0252](#).

## **REPORTING CONVICTIONS**

Any child day care center, group day care home, or family day care home licensee, or an approved assistant or substitute staff member in a family day care home, must notify DPH immediately upon learning of any conviction of (1) the facility's owner, conductor, operator, or maintainer; (2) any employee connected with the provision of child care; or (3) for family day care homes, any person residing in the household. For family day care homes, the law specifies that the crimes which must be reported include any which affect the commissioner's discretion in licensing or approving individuals.

Failure to report as required can result in DPH (1) suspending or revoking the license or approval or taking other regulatory action and (2) imposing a civil penalty of up to \$100 per day for each day after the person became aware of the conviction.

It is a class A misdemeanor for someone seeking employment in a position connected with child care to make a false written statement regarding prior criminal convictions pursuant to a form bearing notice that such false statements are punishable, if the person does not believe the statement to be true and intends the statement to mislead the prospective employer ([CGS §§ 19a-87a, -87e](#)). A class A misdemeanor is punishable by up to one year in prison, a fine of up to \$2,000, or both.

JO:ts