

West's General Laws of Rhode Island Annotated \_Title 40. Human Services \_Chapter 13.2. Certification of Child Care and Youth Serving Agency Workers

Gen.Laws 1956, § 40-13.2-1

§ 40-13.2-1. Definitions

For the purpose of this chapter

(1) "Child" means any person less than eighteen (18) years of age, provided that a person over eighteen (18) years of age and not yet twenty-one (21) years of age who is nevertheless subject to continuing jurisdiction of the family court, pursuant to chapter 1 of title 14 or is identified as emotionally disturbed as defined in chapter 7 of title 40.1 or is identified as developmentally delayed in accordance with § 40.1-1-8 shall be a child for purposes of this chapter.

(2) "Department" means the department of children, youth, and families.

(3) "Director" means the director of the department of children, youth, and families or the designee of the director.

(4) "Person" when used to describe the owner or operator of a facility which must be licensed or registered with the department or when used to describe a youth serving agency worker includes individuals, associations, and corporations.

(5) "Youth serving agency" means any facility or program which is operated for more than two (2) hours per day at least one day per week, and which provides programs and activities for children and employs persons who have supervisory or disciplinary authority over a child or children. School programs operated by schools certified under the provisions of title 16 of the general laws are not considered youth serving agencies pursuant to this chapter.

(6) "Youth serving agency worker" means any person in the employ of a youth serving agency who has supervisory or disciplinary authority over a child or children or whose work involves routine contact with a child or children without the presence of other employees.

Gen.Laws 1956, § 40-13.2-2

§ 40-13.2-2. Qualification for child care employment

Notwithstanding any other provisions of law to the contrary, any person seeking to operate or seeking employment in any facility which is, or is required to be, licensed or registered with the department or seeking employment at the training school for youth if that employment involves supervisory or disciplinary power over a child or children or involves routine contact with a child or children without the presence of other employees, shall undergo an

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employment background check, a CANTS (child abuse and neglect tracking system) check of substantiated complaints, and criminal records check as provided for in this chapter. The director of the department of children, youth, and families may by rule identify those positions requiring background checks, CANTS checks and criminal records checks.

### **Gen.Laws 1956, § 40-13.2-3**

#### **§ 40-13.2-3. Employment background checks**

Any person seeking to operate a facility which is, or is required to be, licensed or registered with the department will submit an affidavit to the department providing information relating to individual employment history as shall be required by rule promulgated by the director. Any person operating a facility which is, or is required to be licensed or registered with the department shall require all persons seeking employment, if that employment involves supervisory or disciplinary power over a child or children or involves routine contact with a child or children without the presence of other employees, to execute a similar affidavit prior to employment and will maintain the affidavit on file subject to inspection by the director. Failure to require the affidavit or failure to maintain the affidavit on file will be prima facie grounds to revoke the license or registration of the operator of the facility.

#### **Gen.Laws 1956, § 40-13.2-3.1**

##### **§ 40-13.2-3.1. CANTS (Child Abuse and Neglect Tracking System) check--Operators and employees**

Any person seeking to operate a facility, which is, or is required to be licensed or registered with the department or who is seeking employment, if such employment involves supervisory or disciplinary power over a child or children or involves routine contact with a child or children without the presence of other employees in any facility which is, or is required to be, licensed or registered with the department or who is seeking such employment at the training school for youth shall, after acceptance by the employer of the affidavit required by § 40-13.2-3, apply to the appropriate agency for a CANTS (child abuse and neglect tracking system) check. The department is authorized and directed to promulgate rules and regulations to impose such fees or charges as may be appropriate to implement the provisions of this section.

#### **Gen.Laws 1956, § 40-13.2-4**

##### **§ 40-13.2-4. Criminal records check--Operators of child care facilities which must be licensed or registered with the department**

Any person seeking to operate a facility, which is, or is required to be, licensed or registered with the department shall apply to the Rhode Island bureau of criminal identification for a nationwide criminal records check. The check will conform to the applicable federal standards, including the taking of fingerprints to identify the applicant and any expense associated with providing the criminal records check shall be paid by the applicant and/or requesting agency. The director will determine by rule those items of information appearing on a criminal records check, which constitute disqualifying information because that information would indicate that the employment could endanger the health or welfare of a child or children. Upon the discovery of any disqualifying information with respect to a proposed operator, the Rhode Island bureau of criminal identification will inform the director, in writing, of the nature of the disqualifying information.

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**Gen.Laws 1956, § 40-13.2-4.1**

**§ 40-13.2-4.1. Criminal records check--Operators of youth serving agencies**

(a) Any person seeking to operate a facility or program which is a youth serving agency shall apply to the bureau of criminal identification of the attorney general's office for a criminal records check. Those items of information appearing on a criminal records check, which have been determined to constitute disqualifying information by the director pursuant to § 40-13.2-4 of this chapter, shall also constitute items of disqualifying information pursuant to this section.

(b) Upon the discovery of any disqualifying information as defined in accordance with the rule promulgated by the director, the bureau of criminal identification of the attorney general's office will inform the applicant, in writing, of the nature of the disqualifying information. In addition, the bureau of criminal identification of the attorney general's office will inform the applicant, in writing, without disclosing the nature of the disqualifying information, that an item of disqualifying information has been discovered.

(c) In those situations in which no disqualifying information has been found, the bureau of criminal identification of the attorney general's office will inform the applicant, in writing, of this fact.

(d) The operator or proposed operator of the youth serving agency will maintain on file a document issued by the bureau of criminal identification of the attorney general's office stating that no disqualifying information has been discovered as regards the operator or proposed operator of the youth serving agency, and this document shall be made available for inspection by the parent(s)/guardian(s) of any child enrolled in the programs of the youth serving agency. The operator will also maintain on file, and make available for inspection by the parent(s)/guardian(s) of any child enrolled in the programs of the youth serving agency, evidence that criminal records checks have been obtained on all employees of the youth serving agency pursuant to § 40-13.2-5.1, and the results of the checks.

**Gen.Laws 1956, § 40-13.2-5**

**§ 40-13.2-5. Criminal records check--Employee of child care facilities which must be licensed by the department**

(a) Any person seeking employment, if that employment involves supervisory or disciplinary power over a child or children or involves routine contact with a child or children without the presence of other employees, in any facility which is, or is required to be, licensed or registered with the department or seeking that employment at the training school for youth shall, after acceptance by the employer of the affidavit required by § 40-13.2-3, apply to the bureau of criminal identification of the state police or the local police department for a nationwide criminal records check. The check will conform to applicable federal standards including the taking of fingerprints to identify the applicant.

(b) Upon the discovery of any disqualifying information as defined in accordance with the rule promulgated by the

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director, the bureau of criminal identification of the state police or the local police department will inform the applicant, in writing, of the nature of the disqualifying information. In addition, the bureau of criminal identification of the state police or the local police department will inform the relevant employer, in writing, without disclosing the nature of the disqualifying information, that an item of disqualifying information has been discovered.

(c) In those situations in which no disqualifying information has been found, the bureau of criminal identification of the state police or the local police department will inform both the applicant and the employer, in writing, of this fact.

(d) The employer will maintain on file, subject to inspection by the department, evidence that criminal records checks have been initiated on all employees seeking employment after August 1, 1985, and the results of the checks.

(e) Failure to maintain that evidence on file will be prima facie grounds to revoke the license or registration of the operator of the facility.

(f) It will be the responsibility of the bureau of criminal identification of the state police or the local police department to conduct the nationwide criminal records check pursuant to this section. The nationwide criminal records check will be provided to the applicant for employment without charge.

**Gen.Laws 1956, § 40-13.2-5.1**

**§ 40-13.2-5.1. Criminal records check--Employee of youth serving agency**

(a) Any person seeking employment, if that employment involves supervisory or disciplinary power over a child or children or involves routine contact with a child or children without the presence of other employees, in any facility or program which is a youth serving agency shall file with the employer the affidavit required by § 40-13.2-3. Said affidavit shall be maintained on file by the employer and shall be made available for inspection by the parent(s)/guardian(s) of any child who is enrolled in the programs of the youth serving agency.

(b) Any person seeking employment, if that employment involves supervisory or disciplinary authority over a child or children or involves routine contact with a child or children without the presence of other employees, in any youth serving agency, shall apply to the bureau of criminal identification of the attorney general's office for a criminal records check.

(c) Those items of information appearing on a criminal records check which have been determined to constitute disqualifying information by the director pursuant to § 40-13.2-4 of this chapter shall also be items of disqualifying information pursuant to this section.

(d) Upon the discovery of any disqualifying information as defined in accordance with the rule promulgated by the

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director, the bureau of criminal identification of the attorney general's office will inform the applicant, in writing, of the nature of the disqualifying information. In addition, the bureau of criminal identification of the attorney general's office will inform the applicant, in writing, without disclosing the nature of the disqualifying information, that an item of disqualifying information has been discovered.

(e) In those situations in which no disqualifying information has been found, the bureau of criminal identification of the attorney general's office will inform both the applicant and the employer, in writing, of this fact. The employer will maintain on file, and make available for inspection by the parent(s)/guardian(s) of any child enrolled in the programs of the youth serving agency, evidence that criminal records checks have been obtained on all employees of the youth serving agency pursuant to § 40-13.2-5.1, and the results of the checks. The criminal records checks will be provided to the applicant for employment without charge.

**Gen.Laws 1956, § 40-13.2-5.2**

**§ 40-13.2-5.2. Criminal records check--Employees of the department of children, youth and families**

(a) Any person seeking employment with the department of children, youth and families shall apply to the bureau of criminal identification (BCI), department of attorney general, state police, or local police department where the applicant resides, for a national and state criminal records check. The check shall conform to the applicable federal standards including the taking of fingerprints to identify the applicant. The director shall determine by rule those items of information appearing on a criminal records check which constitute disqualifying information because the information would indicate that employment could endanger the health or welfare of a child or children and would be inconsistent with the purpose and intent of the department of children, youth and families.

(b) The department of attorney general, the state police or the local police department shall forward the results of the nationwide and state criminal record checks, including the nature of any criminal record, on the individual to the individual and to the department of children, youth and families. Upon the discovery of any disqualifying information with respect to an applicant, the department of children, youth and families shall inform the applicant of the disqualifying information.

(c) The cost of criminal record checks required by this section for individuals who are not currently employed by the State of Rhode Island shall be the responsibility of the applicant. The cost of criminal records checks required by this section for individuals who are currently employed by the State of Rhode Island shall be the responsibility of the department of children, youth and families.

(d) Any individual required to submit to a criminal background check, state and/or federal, under subsection (a) above who has submitted to a criminal background check conducted within the previous six (6) months in accordance with § 14-1-34 and/or § 15-7-11 and/or §§ 40-13.2-2, 40-13.2-4, 40-13.2-5, and/or § 40-13.2-9, shall be exempt from an additional check but shall request the department of attorney general, the state police or the local police department which conducted the check forward the results, including the nature of the criminal record, to the department of children, youth and families.

**Gen.Laws 1956, § 40-13.2-6**

**§ 40-13.2-6. Prior criminal records checks**

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If an applicant for employment has undergone a criminal records check pursuant to § 40-13.2-4, 40-13.2-4.1, 40-13.2-5 or 40-13.2-5.1 within eighteen (18) months of an application for employment, then an employer may request from the bureau of criminal identification of the state police or the local police department or the attorney general's office for employees of youth serving agencies pursuant to §§ 40-13.2-4.1 and 40-13.2-5.1 a letter indicating if any disqualifying information was discovered. The bureau of criminal identification will respond by stating if an item of disqualifying information was discovered without disclosing the nature of the disqualifying information or by stating that no disqualifying information was discovered. The letter may be maintained on file to satisfy the requirements of §§ 40-13.2-4, 40-13.2-4.1, 40-13.2-5 or 40-13.2-5.1.

**Gen.Laws 1956, § 40-13.2-7**

**§ 40-13.2-7. Rules and regulations**

**The director is authorized to promulgate rules and regulations to carry out the intent of this chapter.**

**Gen.Laws 1956, § 40-13.2-8**

**§ 40-13.2-8. Destruction of fingerprint records**

At the conclusion of any background check required by this chapter, the state police or the local police department will promptly destroy the fingerprint card of the applicant.