

# **MINIMUM STANDARDS FOR FOSTER FAMILY HOMES**

**Principles  
Regulations  
Procedures**

**Prescribed by  
STATE OF ALABAMA  
DEPARTMENT OF HUMAN RESOURCES  
An Affirmative Action/Equal Opportunity Employer**

**Developed 1974  
Revised 1978, 1982, 1989, 2002, 2007, 2015, 2016**

**REVISIONS TO THE 2002  
MINIMUM STANDARDS FOR FOSTER FAMILY HOMES**

REVISION NO.	DATE OF REVISION	SUBJECT OF REVISION
One (1)	March 1, 2004	Removal of requirement to keep Syrup of Ipecac
Two (2)	December 1, 2004	Unvented Heaters; minor cleanup
Three (3)	June 1, 2006	Financial statement (DHR-FCS-705) and Physical Exam (DHR-FCS-634) for Foster and Adoptive Homes combined into one form
Four (4)	October 1, 2006	Application to Foster or Adopt (DHR-FCS-704) combined into one form
Five (5)	October 1, 2007	Adam Walsh requirement to complete out of state Central Registry checks five years back on prospective foster parents and other adults in the home
Six (6)	September 30, 2015	United States Supreme Court ruling legalized same sex marriage. Marital language changed to reflect this legalization.
Seven (7)	April 6, 2016	Added statement to the confidentiality section prohibiting foster parents posting photographs or any information on a foster child and/or their parents on social networking sites.
Eight (8)	July 1, 2016	Reasonable and Prudent Parenting provides parameters and exceptions to caregiver decision making.

## FOREWORD

Minimum Standards for the operation of foster family homes has been revised in accordance with the Child Care Act of 1971 (Title 38, Chapters 7 and 13, Code of Alabama 1975; Title 41, Chapter 22, Code of Alabama 1975), Federal Court Orders in reference of the R.C. vs. Fuller case, and the Adoption and Safe Families Act (Public Law 105-89). Public Law 113-183, Preventing Sex Trafficking and Strengthening Families Act, was signed into law on September 29, 2014. In order to implement the legislation, as well, as federal requirements, reasonable and prudent parenting policy was developed.

Since 1931, the State Board of Public Welfare, (now known as the State Department of Human Resources) has prescribed minimum standards which had been developed by representatives of the field of child care as regulatory measures for the conduct of child care facilities and agencies. Since that time, the standards have been revised periodically to meet the needs of dependent and neglected children in the State.

Now, standards must address the special needs of children and their families as defined in the R.C. case. The five (5) goals of the “System of Care” as defined in R.C. are: 1) To protect class members from abuse and neglect; 2) To enable class members to live with their families; and when that cannot be achieved through the provision of services, to live near their home; 3) To enable class members to achieve stability and permanency in their living situation; 4) To enable class members to achieve success in school; and 5) To enable class members to become stable, gainfully employed adults. The standards are also designed to ensure that children in foster care placements receive quality services that protect their safety and health as required by the Adoption and Safe Families Act (ASFA). **The standards also require that providers allow children in their care to comply with Reasonable and Prudent Parent standards and as such children and youth participate in developmentally appropriate activities.**

In developing the current revision of minimum standards, the State Department of Human Resources utilized the resources of veteran Department staff and sought the advice and assistance of knowledgeable persons representative of the field of child care. These regulations, now under the title of “Minimum Standards for Foster Family Homes,” are to be used in meeting and maintaining standards for the substitute care of children away from their own homes and services to their families towards a goal of reunification, termination of parental rights/adoption, or independent living, recognizing that some children are suited for long-term foster care.

Also included in this publication are principles and procedures for the approval of foster family homes.

Sections III through VIII set out the minimum standards that must be met by persons responsible for the care of children in order for an approval to be issued by the Department. The regulations are in keeping with regional and national trends for the desirable substitute care of children, plus federal court orders.

The original minimum standards under the provisions of the Child Care Act of 1971 were published in 1974. Subsequently, revisions were made in 1977, 1980, 1982 and 1989– all with the assistance and approval of Ad Hoc Advisory committees and the State Board of Human Resources.

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## I. PRINCIPLES OF FOSTER FAMILY HOMES

While the separation of children from their families may not be necessary in most cases, there are some situations where removal may be the only action determined to be appropriate to ensure safety and offer the needed services to children and their families.

Foster parents play a particularly vital role in the lives of the children who are served by them. The foster parents provide a home setting for the children and, as team members, recognize the importance of children's families as well as the need for safety and permanence.

The responsibility of every foster family home, as defined in the Child Care Act, is to provide developmental experiences for children within a setting which also affords adequate food, clothing, shelter, safety and education. **Additional Federal and State Acts, rules and regulations require that foster parents have the responsibility of operating according to Reasonable and Prudent Parent Standards and allow children in their care to participate in age and developmentally-appropriate activities.** An accompanying responsibility is the support and maintenance of family relationships.

A primary function of every foster family home shall be to work with children and their families, to help them utilize and expand upon strengths within the family, and to assist in family reunification efforts when that is the goal.

All children should continue to be regarded as members of the family units from which they came. Permanency is the desired goal for all children and therefore, reunification with the family should be the first consideration. Children's feelings for their own family must be respected and handled in a manner that will not denigrate either child or parent.

Although the family may be unable to provide twenty-four hour a day care for the child, the family can make a significant continuing contribution to the child's life and emotional stability. In addition, the family retains rights concerning the child, unless those rights have been terminated by a court order.

The type of out of home care selected for each child is determined by the child's individual needs such as 1) age; 2) temperament; 3) physical, mental and emotional condition; 4) patterns of action, reaction and interaction and 5) the child's relationship with significant others in his/her life. The selection should include consideration of the need to build the child's self-reliance and self-esteem. Established professional principles should always be followed when placing a child so that the trauma felt by the child is addressed.

Support and services must be offered to the child's family while the child is in care. Out-of-home care is viewed as supplemental parenting in which the foster family home provides only that portion of parental care that cannot be supplied by the legal parents or relatives. The type of care selected must recognize and support the individuality and the cultural background of the child, as well as provide the basic elements of physical safety and emotional security, and the preservation of the basic rights of the child.

Foster family homes shall provide children adequate shelter; a balanced, appetizing and adequate diet; and comfortable, stylish and properly fitted clothing. Young children need guidance that will encourage their development at an appropriate level. Such guidance may incorporate expectations which are realistic and yet challenge the child to grow, help the child to build stable, trusting relationships with adults, and assist the child generally in growing

physically and emotionally. **Children should also be afforded opportunities to participate in age and developmentally appropriate activities and events.** Academic education in health habits; human sexual development and function; religion and morals; and for adolescents, an opportunity to select and train for a vocation should be provided by the foster family as well as offering experiences in community living, including familiarization with community resources for work, worship, recreation, shopping and socialization.

It is the role of the foster family to assist children as they mature toward preparing and transitioning to adulthood. Children should live in an environment where they can be supported and respected as individuals and receive guidance and help in setting goals based on their own strengths and needs.

Families whose homes are approved as foster family homes are members of a helping team, and have the support of the Department or the licensed child-placing agency. Only through good teamwork efforts can the placement experience emerge as a healthy, wholesome one for a child in a foster family home.

## II. LEGAL AUTHORITY

The following excerpts are provided for reader information. See the Appendix for the complete text of the Code.

### Code of Alabama, 1975

- § 38-7-2: Definitions re: child care facilities.
- §38-7-3: License to operate or conduct child-care facility – Required
- §38-7-4: Application; investigation; application to operate foster family home may be made to licensed child-placing agency.
- §38-7-5: Issuance and term; temporary permits; provisional approval of home...
- §38-7-6: Renewal; reexamination; renewal of approval of boarding home.
- §38-7-8: Department to establish minimum standards for licensing.
- §38-7-10: Investigation of operation without license; report to attorney general for prosecution.
- §26-14-1: Definitions re: reporting of child abuse and neglect.
- §12-15-65: Foster parent's opportunity to be heard at child's hearing. Reasonable efforts to prevent child's removal from family and to reunify with family when removal cannot be prevented.
- §38-13-1-12: Criminal Background Checks on Persons Responsible for Children, Elderly, and Disabled.
- §41-22-1-27: Administrative Procedures Act.

Public Law 105-89: The Adoption and Safe Families Act of 1997.

Public Law 113-183: Preventing Sex Trafficking and Strengthening Families Act September 29, |  
2014.

### III. QUALIFICATIONS OF THE FOSTER FAMILY

The approving agency will require documentation of and maintain all qualifications.

#### A. General

##### 1. Age

###### a) Foster parents shall be:

- The age of majority (i.e., age 19); however, if the couple is related to the foster child, one spouse may be age 19 or older and the other spouse may be under age 19.

##### 2. Marital Status

###### a) Foster parents may be single (single includes never married or legally divorced) or married. If living together in a relationship, foster parents shall have been married in a legal ceremony or by common law, as defined by law, and have been in this relationship for at least one year. If married applicants are living together, either at the time of application or at any later time, both married spouses must be approved as foster parents.

###### b) If separated at the time of application:

- Spouses must have lived apart continuously for a minimum of a one (1) year period with no intent to reconcile;
- Each spouse shall maintain separate households; and
- The separation must be verified by at least three references.

**Note:** The separation does not necessarily have to be legally sanctioned. However, if there is reason to question the stability of the home due to marital status, the foster parent applicant must be willing to discuss his or her situation with DHR.

##### 3. Other

###### a) Foster parents shall be able to:

- Read and write;
- Demonstrate an understanding of the needs of children;
- Give time and attention to the needs of children; and
- Provide opportunities for the physical, mental, emotional, and social development of children in care.

b) Foster Parents shall be:

- Responsive to the changing needs of children;
- Flexible in expectations and attitudes toward children, including those from other cultures. Foster parents shall respect the religious beliefs and cultural heritage of foster children, and shall not interfere with the reasonable practice of a foster child's religious beliefs. Foster parents shall not coerce a foster child into participating in religious or ethnic events against the child's will; and
- Participants in any planning and delivery of services required for children in care.

c) Foster Parents shall:

- Maintain income or resources to meet the needs of the foster family, basic household needs, and the additional needs of the foster children (See Financial Statement for Foster and/or Adoptive Applicants, DHR-FCS-705).
- Receive special approval by the approving agency for any adult roomers or boarders.
- Maintain a valid driver's license and motor vehicle insurance, as required by law, on vehicles transporting children and provide proof of insurance and a valid driver's license to the Department.
- Maintain reliable transportation when transporting foster children that is readily available, in safe condition, and has the required safety features as noted later in these standards.

4. Substitute Care

A "substitute" is defined as a person who is 19 years of age and is called on to come to a provider's home to help provide care for children. A substitute is given the responsibility for each child in his or her care while the licensed or approved provider is away from his or her home.

- The foster parent shall notify the approving agency when substitute care is needed overnight or longer.
- The foster parent shall notify the approving agency of the name, address and telephone number of any substitute caregiver who will provide **emergency substitute care** prior to leaving the children with him or her.

**NOTE:** If the substitute caregiver provides care in the foster home, a criminal history check must be obtained. (See Character and Suitability Section of these standards.)

5. Confidentiality and Social Media

- Foster Parents agree to maintain personal, intimate information concerning the foster children and their birth families confidential in accordance with the Code of Alabama.
- Foster Parents will only use or disclose confidential information concerning children with authorization by the approving agency.
- **Foster parents shall not post photographs of foster children or any other information (no matter how vague) regarding the foster children or their families to social networking websites such as Facebook, Twitter, Instagram, Snapchat, Pinterest, etc.**

B. Training

All foster parents are required:

1. To complete thirty (30) hours of preparation/training as provided by the approving agency prior to being approved. Preparation/Training shall consist of the following components:
  - Child Development
  - Behavior Management
  - The Process of Grief and Loss
  - The Dynamics of Attachment and Separation
  - The Value of Families
  - Individualized Service Plans
  - Identifying the Strengths and Needs of Families and Children
  - Behavior as an Expression of Underlying Needs
  - The Value of Partnerships
  - How Children Enter the Foster Care System
  - Family Implications Among Foster Parents
  - Understanding and Valuing Cultural Differences
  - Overview of the R.C. Consent Decree\*
  - **Reasonable and Prudent Parent Standard**
2. To complete fifteen (15) hours of in-service training annually after being approved. This training may include, but is not limited to:
  - Child Safety Issues, including CPR and Pediatric and Infant First Aid
  - Crisis Intervention/Engaging Families

- Effects of Multiple Placements
- Cultural Sensitivity and Responsive Services
- Significance of Birth Families
- Substance Abuse
- Gang Activity
- Universal Precautions and Infection Control
- **Reasonable and Prudent Parent Standard**

3. To complete and maintain current CPR certification. If approved for infants and young children, the training must include Pediatric and Infant First Aid/CPR.

**\* Documentation of current CPR certification training shall be made available for inspection by the Department at all times upon request. A copy of verification that CPR Certification Training has occurred should be maintained in the provider's record by the licensing/approving agency.**

C. Health

Prior to approval, foster parents shall submit required medical information to establish their physical and emotional ability to provide the necessary supervision and guidance to foster children. Foster parents shall:

- Have an initial physical examination performed by a licensed practicing medical doctor, a physician's assistant (as defined in Section 34-24-290 (2), Code of Alabama 1975) or certified family nurse practitioner within six months prior to the home's being approved and a record of the examination shall be on file with the Department or licensed child-placing agency. DHR-FCS-634, Physical Examination for Foster and/or Adoptive Applicants, shall be completed, including the tests specified, and a copy placed in the provider's file.
- Seek appropriate professional consultation and treatment, if prescribed, when there is indication of a physical, emotional, or mental condition that could be detrimental to the children's care. Said person shall not give care to children until the condition is corrected to the satisfaction of the examining licensed practicing physician and the approving agency.

D. Character and Suitability

1. Applicants/licensees, household members, caregivers (a person providing care and guidance of the children in a home), substitutes (See III Qualification of the Foster Family, Section A. General, No. 4), domestic workers, volunteers, or other persons who have contact with the children in care or unsupervised access to the children in care shall be of good moral character. Information regarding the character and suitability of

applicants for a license and all adult household members shall be reviewed by the Department at the time of the initial application for a license. Subsequent character and suitability reviews shall be conducted at the discretion of the Department. Evidence that an applicant/licensee, household member, caregiver, substitute, domestic worker, volunteer, or other person who has contact with the children or unsupervised access to the children, is of unsuitable character may be the basis for the denial of an initial application, denial of an application for renewal of a license, suspension of a license/permit, or revocation of a license or six-month permit.

2. The applicant/licensee shall conduct a character and suitability review, as set forth below, of substitutes, caregivers, domestic workers, volunteers, and other persons who have contact with the children or unsupervised access to the children.
3. Factors to be considered in determining character and suitability shall include but need not be limited to:
  - a. References
    - (1) At the time of initial application, each applicant for a license and each adult household member shall provide the Department with the names, addresses, and telephone numbers of at least three persons who are unrelated to the applicant or household member by blood, marriage, or adoption. These persons shall be contacted by the Department to determine the applicant/household member's character, community reputation, work history, and suitability to care for children or to have contact with children. The Department may, at its discretion, contact additional sources who can attest to the applicant/household member's character and suitability to care for children or to have contact with children.
    - (2) The applicant/licensee shall obtain at least three written references for each current and prospective caregiver, substitute, domestic worker, volunteer, or other person who has contact with the children or unsupervised access to the children. References shall attest to the person's character, community reputation, work history, suitability to care for children or to have contact with the children. Reference contacts shall not be related to the person by blood, marriage, or adoption. Written references shall be kept on file at the approving agency's office.
  - b. Clearance of State Central Registry on Child Abuse/Neglect
    - (1) At the time of initial application, a completed REQUEST FOR CLEARANCE OF STATE CENTRAL REGISTRY ON CHILD ABUSE/NEGLECT (DHR-DFC-1598) shall be submitted by the applicant and each adult household

member. A check must be completed of any child abuse and neglect registry in each State the prospective foster parent and any other adults living in the home have resided in the preceding five years. Results shall be kept in the Department's files.

- (2) The applicant shall obtain a completed REQUEST FOR CLEARANCE OF STATE CENTRAL REGISTRY ON CHILD ABUSE/NEGLECT (DHR-DFC-1598) for each caregiver, substitute, volunteer, domestic worker, and any other person who has contact with the children or unsupervised access to the children. Completed forms shall be submitted to the Department. Results shall be kept on file at the approving agency's office.
- (3) A subsequent REQUEST FOR CLEARANCE OF STATE CENTRAL REGISTRY ON CHILD ABUSE/NEGLECT (DHR-DFC-1598) may be requested by the Department at any time.

c. Criminal History Background Information Checks

- (1) In accordance with Alabama law, Act 2000-775, effective November 1, 2000 (see Appendix for a copy of the law), the criminal history of each applicant for a license, each licensee, each adult household member, substitute, caregiver, volunteer, and domestic worker, as well as any other person who has contact with the children, or unsupervised access to the children shall be reviewed.
- (2) Each licensee, adult household member, substitute, caregiver, volunteer, domestic worker, as well as any other person who has contact with the children or unsupervised access to the children, licensed, residing in a licensed home, employed, or performing volunteer services prior to November 1, 2000, shall submit to the Alabama Bureau of Investigation, Department of Public Safety, as instructed by the Department, a request for a criminal history background information check accompanied by the following:
  - (a) Fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.
  - (b) Written consent from the licensee, each adult household member, substitute, caregiver, volunteer, domestic worker, as well as any other person who has contact with the children or unsupervised access to the children, for the release of the criminal history background information to the Department of Human Resources. A copy shall

be submitted to the Department of Human Resources Criminal History Checks Unit. A copy shall be kept on file in the approving agency's office.

- (c) The required fee, unless fee is to be paid by the Department.
  - (d) Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a driver's license, non-driver's identification, or program participation card. A copy of the identification verification shall be kept on file in the approving agency's office.
- (3) At the time of initial application, an applicant for a license and each adult household member shall submit to the Alabama Bureau of Investigation, Department of Public Safety, a request for a criminal history background information check accompanied by the following:
- (a) **MANDATORY CRIMINAL HISTORY CHECK NOTICE:** (See Forms section for copy of form) Alabama law requires that a criminal history background information check be conducted on all persons who hold a license or work in a Department of Human Resources licensed child care or adult care facility, a foster or adoptive home approved by the Department of Human Resources, or a licensed child placing agency, including all officers and agents of the entity. You are required to provide full, complete, and accurate information on your criminal conviction history upon application for a license or employment (whether paid or unpaid, including volunteers). This information shall be used to determine your suitability to provide care to children, the elderly, or disabled individuals. Unless a criminal history background information check report and suitability determination have previously been obtained, you must complete a written request and consent for a criminal history background information check with fingerprints at the time of application for employment. Refusal to complete these documents or providing false information shall result in refusal of employment, approval, or licensure. The term conviction includes a determination of guilt by a trial, by a plea of guilty, or a plea of nolo contendere. You are required to notify your employer, licensing agency, or entity where you are performing volunteer work of any

criminal conviction occurring subsequent to the date of completion of this notice. Any individual determined to have submitted false information shall be referred to the district attorney or law enforcement for investigation and possible prosecution. An individual who intentionally falsifies or provides any misleading information on the statement is guilty of a Class A misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000) and imprisonment for not more than one year. Convictions for any crimes listed in Section III D (d) shall make an individual unsuitable for licensure, employment, or volunteer work.

- (b) The Mandatory Criminal History Check Notice shall include the following criminal history statement:
  - (i) Have you ever had a suitability determination made by the Department of Human Resources in connection with a previous criminal history information background check? Yes (\_\_\_) No (\_\_\_).
  - (ii) Have you ever been convicted of a crime? Yes (\_\_\_) No (\_\_\_). If yes, state the date, crime, location, punishment imposed, and whether the victim was a child or an elderly or disabled individual.
- (c) A signed statement, which includes the mandatory statement above, indicating whether he or she has ever been convicted of a crime, and if so, fully disclosing all convictions. The mandatory statement shall be submitted to the Department of Human Resources Criminal History Checks Unit. A copy shall be kept on file in the approving agency's office.
- (d) Two complete sets of fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.
- (e) Written consent from the applicant and each adult household member for the release of the criminal history background information to the Department of Human Resources Criminal History Checks Unit. A copy shall be kept on file in the approving agency's office.
- (f) The required fee.

- (g) Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a driver's license, non-driver's identification, or program participation card. A copy of the identification verification shall be kept on file in the approving agency's office.
- (4) Each adult household member, substitute, caregiver, domestic worker, volunteer, and any other person who has contact with the children or unsupervised access to the children, initially employed, moving into a licensed home, or performing volunteer services on or after November 1, 2000, shall submit, to the Alabama Bureau of Investigation Department of Public Safety, a request for a criminal history background information check accompanied by the following:
- (a) Prior to or on the first day of employment or moving into the home, a statement shall be signed, which includes the mandatory statement above, indicating whether he or she has ever been convicted of a crime, and if so, fully disclosing all convictions. The mandatory statement shall be submitted to the Department of Human Resources Criminal History Checks Unit. A copy shall be kept on file in the approving agency's office.
  - (b) A substitute, caregiver, volunteer, domestic worker and any other person who has contact with the children or unsupervised access to the children, who fails or refuses to sign the required Mandatory Criminal History Check Notice and complete the questions shall not be employed, or allowed to perform volunteer services.
  - (c) If an adult household member fails or refuses to sign the required Mandatory Criminal History Check Notice and complete the questions, the approving agency shall revoke or refuse to renew the home's license.
  - (d) Upon receipt of a signed Mandatory Criminal History Check Notice, revealing no disqualifying convictions, an adult household member, substitute, caregiver, volunteer, domestic worker and any other person who has contact with the children or unsupervised access to the children, may be employed, perform volunteer services or reside in a licensed home provisionally at the discretion of the licensee, pending receipt of a suitability determination from the Department.

- (e) Within five business days of moving into the home, being employed, or beginning volunteer service the following shall be submitted to the Alabama Bureau of Investigation, Department of Public Safety:
  - (i) Fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.
  - (ii) Written consent from each adult household member, substitute, caregiver, volunteer, domestic worker, or any other person who has contact with the children or unsupervised access to the children, for the release of the criminal history background information to the Department of Human Resources. A copy shall be submitted to the Department of Human Resources Criminal History Checks Unit. A copy shall be kept on file in the approving agency's office.
  - (iii) The required fee.
  - (iv) Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a driver's license, non-driver's identification, or program participation card. A copy of the identification verification shall be kept on file in the approving agency's office.
- (f) Fingerprints may be collected through the use of ink pads and fingerprint cards or through the use of ink-less "live scan" fingerprinting devices to collect and print fingerprints on cards or transmit the fingerprints electronically to the Department of Public Safety. When no copy of the fingerprint card is available because of the electronic transmission of live scan fingerprints, written documentation from the individual or law enforcement agency that the fingerprints have been collected and transmitted shall be maintained on file in the home and sent to the Department's Criminal History Check Unit.
- (g) Fingerprints are not required when a disability prevents an individual from being fingerprinted. Disabilities preventing fingerprinting include the loss of both hands, severe scarring of all fingers, closed paralytic hands, and similar disabilities. In

situations involving a covered disability, a completed Criminal History Information Consent and Release form is required. The Department of Public Safety shall conduct a criminal history background information check by name and Social Security number in such cases. Documentation or verification that the disability prevents fingerprinting shall be obtained from law enforcement or from an individual trained in fingerprinting techniques and shall be submitted to the Department of Public Safety and the Department of Human Resources.

- (5) Criminal history background information checks shall be performed by the Alabama Department of Public Safety. National criminal history background checks shall be requested by the Department of Public Safety from the Federal Bureau of Investigation. Criminal history background reports shall be sent to the Department of Human Resources.
- (6) The Department of Human Resources shall review the report and determine whether the applicant or other person meets the suitability requirement based on the criminal history background report. The Department shall issue a suitability determination and maintain a confidential file on individuals for whom a criminal history background information report or report updates have been received.
- (7) Upon receipt of a determination of unsuitability, the affected individual shall be terminated from employment or volunteer work in the home.
- (8) The Department shall suspend or revoke the license or deny the initial application or the application for renewal if the applicant/licensee, household member or another person in the home receives a determination of unsuitable character.
- (9) The Department shall send a copy of the letter determining suitability status to the individual affected and to the licensee of the home. The individual has thirty (30) days from the date of notification to request in writing a reversal of the determination of suitability if the disqualifying conviction is not for a sex crime, or a crime against a child, an elderly individual, or an individual with disabilities. The affected individual shall show clear and convincing evidence of successful rehabilitation.
- (10) The Department shall send a copy of the report received from the Department of Public Safety to the affected

individual. The affected individual shall have the opportunity to challenge the accuracy of the report.

- (11) If a suitability determination letter is received by the licensee from the Department's Criminal History Check Unit stating an individual is suitable for employment based on the absence of any disqualifying convictions, the licensee shall make his or her own determination regarding employment or volunteer work. No right to employment is created by the issuance of a letter stating an individual is suitable for employment.
- (12) Only one criminal history background check shall be required per individual. If the individual certifies on the Mandatory Criminal History Check Notice statement that a criminal history check has been performed by the Department or by the Department of Education, the Department will issue a determination of suitability based on the criminal history report received. If the previous report cannot be obtained, a new criminal history check shall be required.
- (13) The licensee shall inform the Department of any criminal convictions and current criminal charges involving the licensee, household members, substitutes, caregivers, domestic workers, and other persons who have contact with the children or unsupervised access to the children, which occur after a license/permit is obtained. Such reports shall be made within 24 hours and followed by a written report within five (5) days. This information shall be kept on file by the Department.

d. Evidence of Unsuitable Character

- (1) Convictions for any of the following crimes shall make an applicant/licensee, household member, caregiver, substitute, domestic worker, volunteer, or any other person unsuitable to hold a license/permit or have contact with the children or unsupervised access to children.
  - (a) Murder, manslaughter, or criminally negligent homicide.
  - (b) A sex crime, including the following:
    - (i) Enticing a child to enter a vehicle, room, house, office, or any other space for immoral purposes, as proscribed by Section 13A-6-69 of the Code of Alabama 1975.
    - (ii) Incest, when the offender is an adult and the victim is a minor, as proscribed by

- Section 13A-13-3 of the Code of Alabama 1975.
- (iii) Kidnapping of a minor, except by a parent, in the first or second degree, as proscribed by Section 13A-6-43 or Section 13A-6-44 of the Code of Alabama 1975.
  - (iv) Promoting prostitution in the first or second degree, as proscribed by Section 13A-12-111 or Section 13A-12-112 of the Code of Alabama 1975.
  - (v) Rape in the first or second degree, as proscribed by Section 13A-6-61 or Section 13A-6-62 of the Code of Alabama 1975.
  - (vi) Sexual misconduct, as proscribed by Section 13A-6-65 of the Code of Alabama 1975.
  - (vii) Sexual torture, as proscribed by Section 13A-6-65 of the Code of Alabama 1975.
  - (viii) Sexual abuse in the first or second degree, as proscribed by Section 13A-6-66 or Section 13A-6-67 of the Code of Alabama 1975.
  - (ix) Sodomy in the first or second degree, as proscribed by Section 13A-6-63 or Section 13A-6-64 of the Code of Alabama 1975.
  - (x) Soliciting a child by computer for the purposes of committing a sexual act and transmittal of obscene material to a child by computer as proscribed by Sections 13A-6-110 and 13A-6-111 of the Code of Alabama 1975.
  - (xi) Violation of the Alabama Child Pornography Act, as proscribed by Section 13A-12-191, 13A-12-192, 13A-12-196, or 13A-12-197 of the Code of Alabama 1975.
  - (xii) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in paragraphs i through xi, inclusive.
  - (xiii) A crime listed in the Community Notification Act, Chapter 20 of Title 15 of the Code of Alabama 1975.
- (c) A crime that involves the physical or mental injury or maltreatment of a child, the elderly, or an individual with disabilities.

- (d) A crime committed against a child.
  - (e) A crime involving the sale or distribution of a controlled substance.
  - (f) Robbery.
  - (g) A crime listed in the federal Adoption and Safe Families Act as prohibiting a person from being a foster parent or adoptive parent shall be deemed to make the convicted person unsuitable for employment, volunteer work, approval, or licensure as a foster parent or adoptive parent.
  - (h) A violation or attempted violation of an offense committed outside the State of Alabama or under federal law is a sex crime or any other crime listed in this notice if the offense would be a crime listed in this notice in Alabama.
  - (i) Reports of adult or child abuse/neglect (with or without criminal convictions), related to crimes listed in (a) through (h) above, with a final disposition of indicated, in this or any other state.
- (2) Examples of evidence which may make an applicant/licensee, household member, caregiver, substitute, domestic worker, volunteer, or any other person, unsuitable to hold a license/permit or have contact with the children or unsupervised access to children, include but are not limited to the following:
- (a) any felony conviction in this or any other state;
  - (b) theft and other financial crimes related to business activities;
  - (c) misdemeanor convictions in this or any other state;
  - (d) operating a motor vehicle while under the influence of or while impaired by the use of intoxicating liquor or drugs;
  - (e) offenses involving the reckless operation of a motor vehicle at an excessive speed;
  - (f) a crime involving the possession of a controlled substance;
  - (g) operating a child care facility without a license/permit/exemption;
  - (h) refusal to cease operations of an unlicensed child care facility;
  - (i) a history of consistent failure to maintain minimum standards while operating a child care facility;

- (j) refusal or failure to cooperate in any Department investigation or inspection;
  - (k) making false or misleading statements or reports to the Department; past history of the individual regarding his/her truthfulness;
  - (l) the individual's ability to care for children; or
  - (m) reports of adult or child abuse/neglect (with or without criminal convictions), other than those listed in (a) ((2)) above, with a final disposition of indicated, in this or any other state.
- (3) Evidence in item (b) ((i)) through ((xiii)) above will be evaluated to determine whether or not it constitutes a danger to the children based on the seriousness of the crime, the existence of extenuating circumstances, the propensity to recommit the crime, and evidence of rehabilitation since the crime was committed.
- (4) An application for a license shall be denied or a license or permit shall be suspended or revoked if the applicant/licensee, a household member, substitute, caregiver, domestic worker, volunteer, or any other person who has contact with the children or unsupervised access to the children, is determined to be of unsuitable character to work with children, to have contact with children or to have unsupervised access to children.

#### **IV. PHYSICAL FACILITIES**

##### **A. General**

The home and grounds shall be maintained in a clean and safe condition.

- A play space for indoor and outdoor activities will be provided. This area shall be free from hazardous conditions that may cause injury.
- The residence shall have a working telephone. Temporary disruptions of service shall be reported to the approving agency within 24 hours.
- Electrical service.
- Water.
- Gas (if used for cooking/heating).
- A waste disposal system (city sewage or septic tank).
- Ventilation. If fans are used for ventilation, blades within reach of children shall be clean and enclosed for safety.
- Comfortably regulated cooling and heating.
- Lighting that provides for necessary activities and safety.

## B. Bedrooms and Bathrooms

- Beds and mattresses shall be of size and quality to allow good sleeping posture. In addition, if infants will be placed in the home, additional guidelines shall be followed related to baby cribs. They are:
  - (1) Slats on babies' cribs shall be no further apart than 2 3/8 inches.
  - (2) Mattresses must be waterproof and fit tightly inside cribs, no more than two finger widths between mattress and each end of the bed.
  - (3) Cribs and mattresses shall be kept clean and disinfected.
  - (4) There shall be a distance of (3) three feet between babies' cribs.
- Separate sleeping rooms shall be provided for children over age 6 who are of the opposite sex.
- An adequate number of bedrooms shall be provided for all persons residing in the home.
- Bedrooms for foster children shall be used only for the child's sleeping, personal time, and study.
- Bedrooms for foster children shall have adequate space for the child's personal belongings.
- Sanitary bathroom facilities that provide privacy shall be available for use by family members and foster children.
- Accommodations shall be available for the special care of sick members of the family and foster children.

## C. Safety – General

- A fence shall enclose any play area when there are hazards, such as, but not limited to bodies of water and dangerous highways, in the immediate neighborhood that would place a child's health and safety at risk.
- Chemicals and poisons that include, but are not limited to, pesticides, herbicides, and pool chemicals shall be stored in a locked storage area.
- There shall be adequate and appropriate facilities for the storage, protection, preparation, and serving of food.
- There shall be a safe water supply with a water temperature of no more than 120 degrees Fahrenheit.
- Decals at child's eye level shall be placed on all clear glass doors (e.g., patio doors, storm doors).
- Handrails within a child's reach shall be placed on all stairs used by children.
- All guns/firearms must be unloaded during storage and shall be kept in a locked storage area that is inaccessible to children.
- All ammunition for guns/firearms shall be kept in a locked storage area that is separate from the guns/firearms and is inaccessible to children.

- All medications shall be secured in a locked storage area that is inaccessible to small children.
- There shall not be anything that constitutes a hazard on the property. This includes, but is not limited to, abandoned automobiles, unlocked or abandoned household appliances, uncovered wells and cisterns, stacked lumber with exposed nails, or explosives.
- There shall be appropriate safeguards against potential hazards. This includes, but is not limited to, protection for children from heaters with open flames; use of or being near cooking ranges when in use; tools and machinery shall be kept in an area where children cannot get to them or use them without supervision.
- If toddlers (approximate ages of 1 to 4 years) will be placed in the home, additional guidelines must be followed. They are:
  - (1) Protective covers shall be placed over all exposed electrical outlets. The covers shall be large enough to prevent swallowing; and
  - (2) Safety gates will be placed at the top and bottom of stairs.

D. Safety - Swimming Pools and Hot Tubs

1. General

- Pools shall be maintained in clean and safe condition.
- Foster parents shall develop rules governing pool, hot tub and/or spa use. Rules shall be posted and reviewed with each child. (See Appendix for "Suggested Pool/Spa Safety Rules")

2. Pools exceeding two (2) feet in depth (above or in ground):

- Shall be enclosed by a fence or a solid wall. Where there are windows or door openings into this area, said openings shall be made inaccessible to young children. The sides of an above ground pool shall not be considered a fence or wall. The fence shall be at least four (4) feet in height, with a locking gate. The gate and all areas of access shall remain locked at all times the pool is not in use.

- (1) If children are allowed in the pool area, additional supervision shall be required. The adult to child ratio shall be:
  - (a) One adult caregiver for each child younger than 21/2;
  - (b) One adult caregiver for every three (3) children 21/2 years up to 6 years of age;
  - (c) One adult caregiver to every five (5) children 6 years of age and older.
- (2) Direct supervision by a person age 16 or older certified in First Aid/CPR, including Pediatric CPR, and certified in water safety

shall be required at all times when children are using swimming pools or playing in the fenced in area.

(3) The pool shall be maintained in a clean and safe condition.

- Shall be equipped with a ring buoy, rescue tube, or other appropriate flotation device with an attached rope of sufficient length to cover the pool.
- Shall have depth markers, lifelines, and ladders or steps in the deep and shallow ends.
- Shall have the steps or ladders removed on above ground pool when the pool is not in use.

3. Wading Pools (less than 2 feet in depth)

- When wading pools are being used, there shall be continuous supervision at all times by an adult.
- Wading pools shall be filled with clean water prior to each use and shall be emptied when not in use.

4. Spas and Hot Tubs

- Hot tubs and spas that are not emptied after each use shall have a safety cover that is locked when not in use.
- Hot tubs and spas used by foster children shall be operated at a water temperature not exceeding 104 degrees Fahrenheit.
- The maximum continuous time foster children shall be allowed in a hot tub or a spa is 15 minutes, to be monitored by clocks or timers.
- Persons who suffer from any medical conditions that may be adversely affected by use of a hot tub or spa, including, but not limited to, heart conditions, diabetes, or high blood pressure, shall not use the spa without a doctor's written consent.

E. Safety - Health and Fire

- All maintenance that is required for the foster family home to be in compliance with health and fire safety standards shall be the responsibility of the foster parent(s).
- Inspections by the State or Local Health Department shall be required as determined necessary by the Department of Human Resources, the licensed child-placing agency, or the foster parents.
- Inspections by the State Fire Marshal's Office or local fire department shall be required as determined necessary by the Department, the licensed child-placing agency, or the foster parent(s).
- Smoke alarms, powered by the building electrical system or battery powered, shall be installed and maintained in working order and shall be located in the following areas:

- Outside each separate sleeping area and in the immediate vicinity (within 10 feet) of the sleeping rooms. Alarms shall be no more than 30 feet apart in hallways outside sleeping rooms.
  - (1) At the head of the stairway on each additional story of the dwelling unit, including basements.
- A 2A-10BC dry chemical fire extinguisher no less than 5 pounds in weight shall be installed and maintained in operating condition, in an accessible place, in plain view near room exits which provide an escape route. It is the responsibility of the foster care provider to maintain the fire extinguisher in operating condition.
- No stove or combustion heater shall be so located as to block escape if a fire occurs from malfunctioning of the stove or heater.
- Each bedroom shall have a window through which a child can exit in the event of a fire that blocks exit through the door. If the bedroom is on an upper floor, a ladder that can be used for exit through the window shall be supplied in the bedroom.
- The home shall be free of dangers which constitute an obvious fire hazard, such as faulty electrical cords, overloaded electrical sockets or an accumulation of papers, paint or other flammable material stored in the home.
- Unvented fuel fire space heaters must comply with the provisions of the NFPA 54 (Fuel Gas Codes) and be equipped with oxygen depletion safety devices. These heaters shall not be used unless listed in the Building and Fire Codes and inspected by a person/official trained in examining the proper function of such heaters. Written documentation received from the inspector will need to be maintained in the foster family home resource record. Unvented fuel fire space heaters are prohibited in bedrooms and bathrooms. Any home with an unvented fuel fire space heater in a bedroom or bathroom must have the heater disconnected or removed from the bedroom or bathroom. Unvented fuel fire space heaters may not be used in manufactured homes, unless the heater has been manufactured for use in a manufactured home and is so listed. A foster family home with an unvented fuel fire space heater that has met the inspection requirement above can only be approved for three foster care children. For fire code purposes, a home qualifies as a single-family dwelling only if members of a single family occupy the dwelling and there are no more than three unrelated people residing in the home.
- All mobile homes shall conform to the National Mobile Home Construction and Safety Standard Act of 1974. An aluminum plate permanently attached to the mobile home will indicate conformity with the 1974 Act. Mobile homes shall comply with anchoring and tie-down requirements as specified by Code of Alabama 1975, Sections 24-5-30 through 24-5-34. Foster Family Home parents shall provide documentation from installer that requirements are met.

#### F. Emergency Plan

Each home shall develop a fire evacuation plan and a plan to be implemented in the threat of a natural disaster (such as a tornado warning). The foster parents shall assure

that, consistent with their ability to comprehend, foster children understand the plan. The plan will include, but is not limited to, instructions about the following:

- When to dial 911.
- A description of two or more means of exit from each floor level used for sleeping by foster children.
- When to open the door into a hall and when to exit through a window.
- The designation of a central meeting place outside the home.
- A means of evacuating children who need assistance.
- Leaving personal belongings behind in a situation that is a threat to safety.
- Other emergency procedures:
  - a. The licensee shall maintain a list of names and telephone numbers, posted by the telephone for emergency situations. The list shall include the name and telephone number of each child's parent(s)/guardian(s) (if applicable), each child's doctor, law enforcement, fire department, hospital, poison control, Department of Human Resources, caregivers, and substitutes.
  - b. A plan for the evacuation and care of the children in case of fire, tornado, serious accident or injury, or power failure shall be established and posted in a conspicuous place in the home. The licensee shall inform substitutes and all caregiver(s) of his/her duties and responsibilities in case of emergency. A written statement, signed by each substitute and caregiver, verifying that he/she has been informed of emergency procedures shall be on file in the home.
  - c. The licensee and each caregiver shall have current Infant-Child Cardiopulmonary Resuscitation Certificate (CPR) from the American Red Cross, the American Heart Association or the National Safety Council and a current First Aid Certificate. Copies of the certificates shall be on file in the home.
  - d. The licensee shall post the poison control center's toll free number on or near the telephone. **The toll free number is 1-800-462-0800.** When a child is suspected to have swallowed a toxic substance, the licensee shall immediately contact the poison control center. Documentation of the poison control center's instruction shall be placed in the child's file with the date, time, and details of the incident.

## G. Cleanliness

### 1. Home Dwelling

- The house shall be clean overall. The house shall be maintained so as to prevent and/or eliminate rodent and insect infestation. This includes the presence of screens on doors and windows if used for ventilation.

- Outside garbage and trash shall be stored in containers with lids.
- Garbage and trash shall be removed at intervals to avoid creating a nuisance or menace to health.

2. Animals in the Home

- An animal shall not be kept if the animal has shown aggressive behavior.
- Animals shall have an annual certificate of rabies vaccination on file in the home if required by law to be vaccinated.
- An animal that is not aggressive but could pose a threat to the health and safety of children such as, but not limited to lizards, snakes and turtles, shall be routinely confined (e.g. a cage or an aquarium) in an appropriate container.
- Children may be allowed to handle pets if determined that it is reasonably safe to do so.

**V. CARE OF CHILDREN**

A. Physical Care

1. Medical and Dental

- Foster parents shall participate in planning to meet the medical and dental needs of child(ren) in custody. This shall be coordinated with agencies which have planning and/or custodial responsibilities. This includes but is not limited to:
  - (1) A thorough physical examination of the child by a licensed practicing medical doctor, a physician's assistant, certified nurse practitioner, or the child shall have benefit of a medical screening or assessment (e.g., EPSDT) within ten days after admission (unless such examination has been received within three months prior to being received into a foster family home), and annually thereafter;
  - (2) Immunizations according to the schedule prescribed by the Health Department;
  - (3) Appointments as recommended by the physician;
  - (4) Administration of prescribed medications in dosages and at times prescribed. A log shall be kept of prescription medication administration. The log shall include, but not be limited to, a record of the child's name, the prescribing physician, the name of the medication, the amount and frequency prescribed, and the date, time and amount of each dose given. It is recommended that the route of medication delivery (oral, topical, etc) as prescribed also be listed.

2. Diet

- Daily diets shall be wholesome, nutritious and properly prepared.
- Special diets shall be followed as prescribed or recommended by a physician.
- Infants shall be fed according to their doctor's recommendation.
- Food shall be served in a manner that is safe and appropriate for the age and development of the child.

3. Personal Hygiene

- Hygiene practices shall be followed to prevent the spread of disease from person to person or from animal to person.
- Individual items such as towels, washcloths, toothbrushes and other toiletries shall be provided for each child according to their individual needs. Also, children are to be discouraged from sharing personal items.

4. Transportation

- Appropriately sized safety helmets shall be worn when using recreational vehicles such as bicycles, go carts, ATV's, etc.
- Seat belts or a child passenger restraint system as prescribed by law are required for the driver and each passenger.

5. Clothing

Foster parents shall:

- Ensure that each foster child is clothed with his/her own clean, well fitting, shoes and clothing appropriate to age, sex, individual needs, and comparable to the community standards.
- Include children in the selection of their clothing, when age appropriate.
- Allow foster children to bring and acquire personal belongings.
- Send all personal clothing and belongings with the children when they leave the foster home.

6. Rest

- Children shall be provided an opportunity for uninterrupted sleep according to their individual needs.
- Children shall not sleep with adults.
- Each child shall have a separate bed.

Exceptions: Two children who are not siblings, of the same sex and under age six, may sleep in the same double size bed if approval is given by the foster parent and social worker. If one child has an objection, the social worker or child-placing agency will be contacted to address the issue. Two siblings of the same sex and any age (unless infants) may sleep in the same double

size bed but only when determined appropriate by the children's social worker and foster parent.

- If infants will be placed in the home, the additional guidelines must be followed:
  - (1) Clean, tight fitting crib sheets shall be provided as frequently as needed.
  - (2) An infant shall sleep alone in a crib until age 18 months. It is strongly recommended the infant be placed on his or her side or back or as recommended by the pediatrician.

## B. Child Care Practices

### 1. Discipline and Punishment

Foster parents shall:

- a) Use discipline as a positive educational influence which seeks to develop inner controls and provide structure.
- b) When appropriate, use positive reinforcement such as, but not limited to:
  - Rewarding good behavior.
  - Praise and encouragement.
  - Providing incentives for positive behavior.
  - Advising foster children of all rules and regulations in the foster home which apply to him/her, including those relating to telephone use, visitation, and mail.
  - Being consistent in the enforcement of foster home rules.
  - Monitoring reading materials, video tapes, music, television and computer usage for age appropriateness. All material with sexually explicit, frightening or violent content shall be inaccessible to children.
  - Administering any discipline required, assuring that it is fair, consistent, brief, related and in proportion to the offense, and in accordance with stated rules and regulations in the foster home. For homes who serve DHR children, discipline shall be consistent with Behavior Management policy, and as directed in the ISP.
  - If necessary, use positive corrective measures, which include, but are not limited to:
    - ◆ Loss of privileges
    - ◆ Time out (See Behavior Management Policy for age and time restrictions)
    - ◆ Grounding

- ◆ Redirecting the child's activity
- ◆ Developing a behavioral contract
- ◆ Extra chores
- ◆ Restitution by child of other person's property damaged or destroyed by child
- ◆ Temporary, supervised isolation from the child's peers

c) Foster parents **shall not** use harsh and humiliating punishment, corporal punishment, physical abuse, emotional abuse, verbal abuse or derogatory remarks about a child or his/her family. Some examples of these types of prohibited punishment or discipline include, but are not limited to:

- Corporal punishment of any kind
- Use of physical restraint as punishment
- Use of another child to administer punishment
- Shaking the child
- Chemical, drug, or mechanical restraints
- Use of instruments to punish a child (i.e., belts, switches, extension cords, etc.)
- Denial of food
- Denial of sleep
- Arbitrarily sending a child to bed early
- Denial of visits, mail, telephone contacts with significant others as described in the ISP/Case Plan
- Extended (more than ½ hour) time outs
- Threatening children with removal from the home
- Punishing children for bed-wetting or accidents in regard to toilet training

2. Visiting/Telephone and Mail Contacts

- Family connections shall be encouraged and maintained.
- Foster parents shall allow visitation rights and telephone and mail contacts of the family and child unless specific, definable and documented reasons to the contrary have been established.
- The approval of the agency with planning responsibility shall be obtained before all visits of the children outside of the State, and visits within the State in excess of three days.

3. Educational Opportunities

- Foster parents will participate in ensuring regular school attendance of children in accordance with the school attendance laws.
- Children will be provided space and quiet time to complete their homework.
- Foster parents will participate in advocating for children's educational needs through IEPs and other necessary methods.
- **Foster parents will provide opportunities for children to participate in age and developmentally-appropriate** extra-curricular school and educational activities.

4. Recreation

- Positive community contacts shall be provided, **as provided for in applicable agency policy** e.g., church, civic groups, and YMCAs.
- Provision shall be made for adequate playtime, both indoor and outdoor.
- Children shall be allowed an opportunity to exercise some free choices of activities **as provided for in applicable agency policy.**

## VI FOSTER FAMILY HOMES SERVING MINOR EXPECTANT MOTHERS

The general requirements which pertain to the care of children prescribed under other sections of this document shall be followed in all applicable respects and, in addition, there shall be compliance with the following special regulations pertaining to the care of minor expectant mothers.

A. Physical Facilities

- Access to medical and hospital facilities.
- No more than two girls per room.
- Separate bed and appropriate storage facilities for each girl.
- Bathroom facilities convenient to the bedrooms.

B. Personal Care

The foster parent(s) shall:

- Participate/assist with medical appointments.
- Make available informal education, including, but not limited to, prenatal care, parenting, homemaking, and first aid.

C. Legal

- Girls who wish to place their children for adoption or in a foster family home shall be referred to the Department of Human Resources or to a child-placing agency.

## VII. FOSTER FAMILY HOMES SERVING MEDICALLY FRAGILE CHILDREN

The general requirements which pertain to the care of children prescribed under other sections of this document shall be followed in all applicable respects and, in addition, there shall be compliance with the following special regulations pertaining to the care of medically fragile children.

### A. Provider Requirements

- Basic instruction in “infection control” (for HIV providers primarily and others as appropriate).
- Receipt of “disease or condition specific” instructions when a child is scheduled for placement in the home.
- For homes serving children with special mobility needs (walkers, wheelchairs, etc.), the home will be free of barriers that would prevent the child(ren) from using their mobility and self-care skills to their maximum potential (i.e., halls and doorways of adequate width, accommodating toilet and bathing facilities, ramps, etc.).

## VIII. APPROVAL PROCESS FOR FOSTER FAMILY HOMES

### A. Application and Procedure for Approval

#### 1. Required Submissions and Agreements

- The completed Application to Foster and/or Adopt (DHR-FCS-704) to the Department of Human Resources

Or

The prescribed application form to licensed child-placing agency.

- Completed Physical Examination for Foster and/or Adoptive Applicants (DHR-FCS-634) to approving agency for each adult member of the household. This form must be completed within six months prior to the approval of the foster family home.
- A statement from a licensed practicing medical doctor, a physician’s assistant, or certified family nurse practitioner on all other household members (i.e., foster parents’ children, boarders, etc.) certifying to the approving agency the person’s freedom from infectious and contagious diseases. This statement shall be dated within six (6) months prior to the approval date of the foster family home.
- Completed Financial Statement for Foster and/or Adoptive Applicants (DHR-FCS-705).
- Completed Request for Clearance of State Central Registry on Child Abuse/Neglect (DHR-DFC-1598) for each applicant, household members 14 years of age and over, adult roomers and boarders, and persons regularly visiting overnight.

- Authorization for release of Alabama and Federal criminal history information (DPS/DHR Criminal History Information Consent and Release Form DHR-CHCK-2088, Effec. 05/01) for each applicant, adult household member, regular overnight visitors, and substitute caregiver. Authorize release of character and suitability information from other states, if requested by the approving agency.
- Name, address and telephone number for all persons who will provide emergency substitute care for foster children in the foster family home.

## 2. Reference Requirements

- Applicants, adult household members and adult persons regularly visiting overnight shall provide to the approving agency the names, addresses and telephone numbers of at least three persons to serve as references. The approving agency may contact additional sources at its discretion to determine character and suitability. The references shall meet the following requirements below:
  - ◆ Have known the person for at least two years;
  - ◆ Are unrelated to the person by blood, marriage, or adoption; and
  - ◆ Are able to give information to the approving agency regarding character, community reputation, work history, and suitability to care for children or to have contact with children.

## B. Examination and Evaluation of Application

The following activities are required during the review of the application:

- The approving agency will examine the physical components of the home to determine compliance with regulations set forth in the Minimum Standards for Foster Family Homes.
- The approving agency will assess the prospective foster family and household members. The assessment shall include, but not be limited to, interviews with foster family members, household members and references to determine compliance with regulations set forth in the Minimum Standards for Foster Family Homes.
- An assessment of the character and suitability of the prospective foster family, household members, regular overnight visitors, and substitute caregiver will be completed. The application shall not be approved if the individual makes false or misleading statements to the approving agency regarding incidents or events occurring while on the job or surrounding part of any child abuse or neglect investigation conducted by the Department, law enforcement or other government officials. Such statements are considered as evidence of unsuitable character. Findings

of indicated reports on the State Child Abuse and Neglect Central Registry or a criminal history may also be evidence of unsuitable character.

- If the applicant is an initial applicant, he or she must successfully complete an approved Foster Parent preparation process. However, if the applicant is applying for a renewal, he or she must attend in-service training.

C. Disposition of the Initial Application

1. Initial Approval

NOTE: Approval for foster family homes does not apply to adoption applications. Dual approvals require both an application for foster family homes and an adoption application.

- The approval for a foster family home shall be valid for one (1) year after the date of approval unless revoked or voluntarily surrendered. The family shall be provided written notice of approval with one of the following forms:

- ◆ Foster Family Home Approval (DHR-DFC-614 (10-84), Rev. 3/87) shall be issued by the Department of Human Resources;

Or

- ◆ Child-Placing Agency Approval (DHR-DFC-735, Rev. 7/88).

2. Denial

The approving agency shall issue a written notice of denial when minimum standards for the operation of a foster family home have not been met.

D. Renewal of a Foster Family Home Approval

1. The foster parents shall submit the following for renewal of an approval:

- The completed Application to Foster and/or Adopt (DHR-FCS-704), or the licensed child placing agency's prescribed application form, thirty (30) days prior to the expiration date on the current annual approval.
- If a foster parent makes an application for renewal prior to the expiration of the current application, the approval shall continue in effect until notice action is taken by the approving agency.
- The name of one (1) reference who has known the family for at least two (2) years.
- A physical examination (every two years only) after the initial physical examination consisting of:

- ◆ Physical Examination for Foster and/or Adoptive Applicants (DHR-FCS-634)

Or

- ◆ A statement from a licensed practicing medical doctor, a physician's assistant, or certified family nurse practitioner which attests to the foster parent's physical fitness and mental well being to care for children and freedom from infectious and contagious diseases.
- Statement from a licensed practicing medical doctor, a physician's assistant, or certified family nurse practitioner on all other family/ household members (i.e., foster parents' children, boarders, etc.) certifying to the approving agency, every two years, the person's freedom from infectious and contagious diseases.

2. The approving agency shall:

- Make a re-examination and evaluation of the foster family home to determine continued compliance with regulations set forth in this Section. The foster family home will assist in the study as required.

E. Revocation of an Approval

An approval shall be revoked or not renewed if the foster parents:

- Consistently fail to maintain standards prescribed as published by the Department.
- Violate the provisions of the approval issued.
- Fail to adhere to all terms of the Foster Family Home Agreement.
- Furnish or make any misleading or any false statements or report to the approving agency.
- Refuse to submit or make available to the approving agency any reports or records required to complete the approval process. However, the approving agency shall make written demand on the person, firm or corporation operating the facility and shall allow ten (10) days for submission of such report or reports.
- Fail or refuse to submit to an investigation by the approving agency.
- Fail or refuse to admit authorized representatives of the approving agency at any reasonable time for the purpose of investigation.
- Fail to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provisions for personal care, medical services, clothing, learning experience and other essentials in the proper care, rearing and training of the child (ren). (Code of Alabama 1975, §38-7-8).
- Fail to assure safety of children.

- Fail to submit to the approving agency authorization to obtain criminal history and information from other states, if requested by the approving agency.
- Fail to submit to the approving agency authorization to obtain subsequent criminal history and information if requested by the approving agency.
- Refuse to seek correction of any physical, emotional, or mental condition that could be detrimental to a child's care.

F. Conditions of An Approval

- Approvals issued by the approving agency to foster family homes permit the foster family home parents to receive from the approving agency a child or children, unrelated to the foster family, for the purpose of providing family care and training on a 24 hour basis.
- Foster family homes approved to serve children shall not be approved to serve adults without special approval by approving agency.
- The number of children received in foster family home care shall not exceed the number specified on the approval.
- Foster family homes shall be approved for **no more than** six (6) foster children unless all the children are siblings. No more than two (2) of the six-(6) children shall be under the age of twenty four (24) months unless they are siblings.
- Supervisory visits to the approved foster family home shall be made by the approving agency as often as necessary to assure the well-being of the foster child or children, the maintenance of the prescribed regulations and to provide consultative services.
- The approving agency has the right and shall be afforded reasonable opportunity to inspect any prospective or approved foster family home. Such inspection shall be made at any reasonable time, without prior notice.
- The holder of an approval may voluntarily surrender the approval. However, in the best interest of the children, an advance notice of fourteen (14) days should be given the approving agency.
- The foster family home approval is nontransferable and is void if the family moves to another dwelling.

# **APPENDIX**

## **APPENDIX**

Advisory/Work Group

Statement of Responsibilities of the Foster Family Home

Suggested Pool/Spa Safety Rules

Information on Giving Medication

The Family Portfolio - Outline of a Home Study

Title 38, Code of Alabama, 1975 – Chapter 7, Child Care

Title 38, Code of Alabama, 1975-§§ 38-13-1 through 38-13-12

Advocacy Agencies and Organizations

Other Agencies

## ADVISORY/WORK GROUP

Alabama Association of County Directors

Alabama Association of Service Supervisors

Alabama Disabilities Advocacy Program

Alabama Foster and Adoptive Parent Association

AGAPE

Alabama State Fire Marshal

Children's Aid Society

Department of Children's Affairs

Department Education

Department of Public Health

Department of Mental Health/Mental Retardation

Family Finders

United Methodist Children's Home

Various Representatives from State and County Department of Human Resources

## STATEMENT OF RESPONSIBILITIES OF THE FOSTER FAMILY HOME

- To immediately report to the County Department or licensed child-placing agency and child's social worker any knowledge of substantial harm or threatened harm to a child's health or welfare, whether accidental or non-accidental. Reports may be made by telephone or by direct oral communication. (Refer to DHR-DFC-1593, Report of Suspected Case of Child Abuse/Neglect, in the Appendix)
- To maintain the prescribed standards and regulations. **To be informed of applicable agency policies and to comply with the same.**
- To carry out the recommended care as outlined in the ISP or Care/Treatment Plan as provided to the foster parent of the child or children in the foster family home. The care shall be carried out in cooperation with the Department of Human Resources or the licensed child-placing agency.
- To adhere to all aspects of the Foster Family Home Agreement
- To maintain the confidentiality of information about the children and their families as set forth in Minimum Standards for Foster Family Homes
- To give notice at least fourteen (14) days in advance of plans to voluntarily surrender the approval
- Report changes in household composition and location
- Honor court-ordered visitation plan/ISP/Care-Treatment plan
- To advise the approving authority of any major changes in household finances

## POOL/SPA SAFETY RULES

### Basic Pool Safety Rules

- 1) Pool hours are \_\_\_\_\_ to \_\_\_\_\_. (Foster providers should set pool hours so as to accommodate their schedules for supervision and according to the ages of the children.)
- 2) Running or boisterous play is not allowed in the fenced-in pool area.
- 3) Glass articles, sharp metal objects and other hazardous objects are not allowed in the fenced-in area.
- 4) No jumping or diving from the slide is allowed; slide feet first and only after previous sliders have cleared the area.
- 5) Only one (1) person at a time will be allowed on the diving board; diving will not be allowed until the previous diver is out of the diving area.

### Basic Hot Tub and Spa Safety Rules

- 1) Never allow young children to use a hot tub or spa when alone.
- 2) Keep an accurate thermometer in the spa or hot tub at all times to monitor the water temperature.
- 3) Never try to adjust or touch equipment such as pumps, heaters or electrical appliances while you are in the spa or hot tub, or while standing in water, so as to prevent the possibility of electrical shock.
- 4) Running or boisterous play is not allowed around the hot tub or spa.
- 5) Glass articles, sharp metal objects and other hazardous objects are not allowed near the hot tub or spa.

**Note: Basic pool, hot tubs and spas safety rules can be located on many websites on the computer Internet. Many organizations such as the American Red Cross and the American Heart Association will provide this information for you. If you have questions concerning this information contact the State Department of Human Resource, Family Service, Office of Child Welfare Policy (334-242-9500) and we will provide assistance with this information.**

# INFORMATION ON GIVING MEDICATION

Instructions for Medication Log

&

Medication Log

## INSTRUCTIONS FOR MEDICATION LOG

### Purpose

- Documentation of medication administration and monitoring for benefits/side effects
- Form completion is *required* for medications prescribed for managing behaviors, and is *optional* for all other prescribed medications (e.g., insulin, antibiotics)

### Completion

Who: All DHR approved foster family home providers and any other foster care providers who do not already have an established documentation procedure

When: As medications are administered

### Filing

1. Foster care providers

File the copy of the completed form at the end of each month in the child's record maintained by the foster care provider and submit the original to the child's worker.

2. Child welfare workers

File the original in the family's case record with the ISP that covers the month for which the form was completed.

### Specific Sections on Form

Medication/Dosage/Frequency: Enter information from prescription.

- Medication name (e.g., Ritalin)
- Prescribing physician (e.g., Dr. Jones)
- Amount to administer (e.g., 1 capsule)
- Frequency for administration (e.g., every 4 hours)

Hour: Enter the actual hours dosage is to be administered

Columns numbered 1 – 31: Columns are numbered to correspond with # of days in a month

The person administering the medication shall initial in the appropriate column and on the appropriate row to indicate the dosage was administered as prescribed.

Notes: This section is used to document

- comments (e.g., variability in dosage, amount, time administered, missed dosages, noticeable benefits, side effects) and
- names of persons initialing the form when more than one (1) person is responsible for administering a medication.

Implementation Information: Many children will need medications administered in settings/locations other than the foster family home (e.g., at school, during visits). Counties are responsible for determining on a case-by-case basis how the documentation will occur and how the information is captured on the log.

Child's Name \_\_\_\_\_

MEDICATION LOG

\_\_\_\_\_  
Month/Year

Medication/Dosage/Frequency	Hour	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
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**Notes:**

Child's Name \_\_\_\_\_

MEDICATION LOG

\_\_\_\_\_  
Month/Year

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\_\_\_\_\_  
Foster Parent's Signature

## THE FAMILY PORTFOLIO – OUTLINE OF A HOME STUDY

The Family Portfolio is the total collection of information (refer to the GPS Implementation Guide, Section K, “What is the Family Portfolio”) designed to document and consolidate the entire preparation and selection process for each foster or adoptive family.

The information in the Family Portfolio will be developed mutually with the prospective foster or adoptive family.

A Family Portfolio may be organized in many different ways. The following is a suggested organization of contents.

- ◆ Decision Page (approval or disapproval related to the Criteria for Selection, written in paragraph form or on standard agency form)
- ◆ Partnership Profile
  - Summary and Recommendation
  - Family Profile (original and modifications)
- ◆ References
- ◆ Final Strengths/Needs Worksheet
- ◆ Professional Development Plan
- ◆ Medical Records, Other Records, Checklists
- ◆ Strengths/Needs Worksheets (Completed by Provider)
- ◆ Notes from Family Consultations (Completed by Worker)
- ◆ Narrative Process Notes
- ◆ Eco Map
- ◆ Partnership Development Plan

## ALABAMA LAW

### Title 38, Code of Alabama 1975

#### Chapter 7, Child Care

##### **§38-7-1. Short title.**

This chapter shall be known and may be cited as the Child Care Act of 1971. (Acts 1971, 3rd Ex. Sess., No. 174, p. 423, §1.)

##### **§38-7-2. Definitions.**

Terms used in this chapter, unless the context otherwise requires, have the meanings ascribed to them in this section. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number, and the word "shall" is always mandatory and not merely directory:

- (1) CHILD. Any person under 19 years of age, a person under the continuing jurisdiction of the juvenile court pursuant to Section 12-15-32, or a person under 21 years of age in foster care as defined by the Department of Human Resources.
- (2) CHILD CARE INSTITUTION or INSTITUTION FOR CHILD CARE. A child care facility where more than 10 children are received and maintained for the purpose of providing them with care or training or both, or transitional living program services, but does not include:
  - a. Any institution for child care which is under the ownership or control, or both, of the State of Alabama, or which is operated or certified or licensed by another agency or department of the state of Alabama.
  - b. Any juvenile detention home established and operated by the state of Alabama.
  - c. Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or taught in public elementary schools, high schools or both elementary and high schools.
- (3) CHILD PLACING AGENCY A public or private child-care facility which receives, places, or arranges for placement any child or children for the purpose of placing or arranging for the placement of the child or children in foster family homes or other facilities for child care apart from the custody of the child's or children's parents. The term "child-placing agency" includes, but is not limited to, all agencies established and maintained by a municipality or other political subdivision of the state of Alabama to protect, guard, train or care for children outside their own homes, but does not include any circuit court or juvenile court or any duly appointed juvenile probation officer or youth counselor of the court who receives and places children under an order of the court.

- (4) **DAY CARE CENTER.** Any child care facility receiving more than 12 children for daytime care during all or part of a day. The term “day care center” includes, but is not limited to, facilities commonly called “child-care centers,” “day nurseries”, “nursery schools”, “kindergartens” and “play groups” with or without stated educational purposes. Such term further includes, but is not limited to, kindergarten or nursery schools or other daytime programs operated as a part of a private school and receiving more than 12 children younger than lawful school age for daytime care for more than four hours a day, with or without stated educational purposes. The term does not include:
- a. Kindergartens or nursery schools or other daytime programs operated by public elementary systems or secondary level school units or secondary level school units or institutions of higher learning;
  - b. Kindergartens or nursery schools or other daytime programs, with or without stated educational purposes, operating no more than four hours a day and receiving children younger than lawful school age;
  - c. Kindergartens or nursery schools or other daytime programs operated as a part of a private school and receiving children younger than lawful school age for four hours a day or less, with or without stated educational purposes;
  - d. Facilities operated for more than four hours a day in connection with a shopping center or service or other similar facility, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and readily available; provided, however, that such facilities shall meet local and state fire and health requirements;
  - e. Any type of day care center that is conducted on federal government premises; or
  - f. Special activities programs for children of lawful school age including, but not limited to, athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations; provided, however, that local and state fire and health requirements are met.
- (5) **DAY CARE HOME.** A child care facility which is a family home and which receives not more than six children for care during the day.
- (6) **DEPARTMENT.** The department of human resources of the State of Alabama.
- (7) **FACILITY FOR CHILD CARE or CHILD CARE FACILITY.** A facility established by 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 this chapter, established and maintained for the care of children.

- (8) **FOSTER FAMILY HOME.** A child care facility in a residence of a family where the family receives a child or children, unrelated to said family, for the purpose of providing family care and training on a full-time basis. The types of foster family homes are defined as follows:
- a. **BOARDING HOME.** A foster family home wherein the foster family receives a child or children and receives payment for their care; provided however, that the number of children so received shall not exceed six, unless said children are of common parentage.
  - b. **FREE HOME.** A foster home which does not receive payment for the care of a child or children and which may or may not receive the child or children for the purpose of adoption.
- (9) **GROUP DAY CARE HOME.** A child care facility which is a family home and which receives at least seven but no more than 12 children for care during part of the day where there are at least two adults present and supervising the activities.
- (10) **GROUP HOMES.** A child care facility where at least seven but not more than ten children are received and maintained for the purpose of providing them with care or training or both.
- (11) **MATERNITY CENTER.** A facility in which any person, agency or corporation receives or cares for one or more minor pregnant girls, except that the term does not include hospitals.
- (12) **NIGHT CARE FACILITY.** A child care facility which is a center or family home receiving a child or children for care during the night. A “night care facility” is further defined as follows:
- a. **NIGHTTIME CENTER.** A facility which is established to receive more than 12 children for nighttime care.
  - b. **NIGHTTIME HOME.** A family home which receives no more than six children for nighttime care.
  - c. **GROUP NIGHTTIME HOME.** A child care facility which is a family home which receives at least seven but no more than 12 children for nighttime care and where there are at least two adults present and supervising the activities.
- (13) **RELATED.** Any of the following relationships by blood, marriage or adoption: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, half brother, half sister, uncle or aunt, and their spouses.

(Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §§2-2.12; Acts 1987 No. 87-671, p. 1198; Acts 1993, 1st Ex. Sess., No 93-904, p. 197, §1; Acts 1995, No 95-255, p. 427, §1.

**§38-7-4. Same -- Application; investigation; application to operate foster family home may be made to licensed child-placing agency.**

Any person, group of persons or corporation who or which receives children or arranges for care or placement of one or more children unrelated to the operator shall apply for a license or for approval to operate one of the types of child-care facilities defined in this chapter. Application for such license or approval to operate a child-care facility shall be made to the department in the manner and on forms prescribed by it. The department, upon receiving such application, shall examine the premises of the child-care facility, including buildings, equipment, furnishings and appliances thereof and shall investigate the persons responsible for the care of children therein. If, upon such examination of the facility and investigation of the persons responsible for care of children, the department is satisfied that the facility and the responsible persons reasonably meet standards prescribed for the type of child-care facility for which application is made, the department shall issue a license or an approval in the proper form, designating on said license or approval the type of child-care facility and, except for a child-placing agency, the number of children to be served at any one time. Application to operate a foster family home may be made to a licensed child-placing agency as defined in subdivision (7) of section 38-7-2, and such licensed child-placing agency may examine said foster family home and investigate persons therein responsible for the care of children, and, upon being satisfied that the foster family home and the responsible persons reasonably meet standards prescribed by the department, said licensed child-placing agency may issue an approval to said foster family home. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §4.)

**§38-7-5. Same -- Issuance and term; temporary permits.**

- (a) Licenses or approvals shall be issued in such form and manner as prescribed by the department and are valid for two years from the date issued, unless revoked by the department or voluntarily surrendered by the licensee, or by the child-care facility designated on the notice of approval, provided, that
  - (1) Licenses or approvals for boarding homes are valid for one year from the date of issuance, unless revoked by the department, or by the licensed child-placing agency which issued the approval, or unless voluntarily surrendered by the licensee or by the child-care facility designated on the notice of approval;
  - (2) Approvals for free homes shall continue in effect until notice of disapproval is given by the department, or by the licensed child-placing agency which issued the approval, or until the child-care facility designated on the notice of approval voluntarily withdraws.
- (b) The department may issue a six-month permit to a facility for child care to allow such facility reasonable time to become eligible for a full license; provided, however, that no such six-month permit shall be issued to a foster family home. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §5.)

**§38-7-6. Same -- Renewal; reexamination; renewal of approval of boarding home.**

- (a) A licensed or approved child-care facility operating under this chapter shall apply for renewal of its license or approval, the application to be made to the department on forms prescribed by it; provided, however, that application for renewal of approval of a boarding home may be made to the licensed child-placing agency which issued the approval.

- (b) The department shall reexamine every child-care facility for renewal of license or approval, including in that process, but not limited to, the examination of the premises and records of the facility and the persons responsible for the care of children as the department considers necessary to determine that minimum standards for licensing or approval continue to be met; provided, however, that in the case of a boarding home approved by a licensed child-placing agency, such reexamination may be made by said agency. If the department or the licensed child-placing agency, as the case may be, is satisfied that the facility continues to meet and maintain minimum standards which the department prescribes and publishes, the department shall renew the license or approval to operate the facility or the licensed child-placing agency shall renew its approval of a boarding home. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §6.)

**§38-7-7. Same -- Department to establish minimum standards for licensing; factors to be considered; children in need of special treatment; department to offer consultation.**

- (a) The department shall prescribe and publish minimum standards for licensing and for approving all child-care facilities, as defined in this chapter. In establishing such standards the department shall seek the advice and assistance of persons representative of the various types of child-care facilities. The standards prescribed and published under this chapter shall include regulations pertaining to:
- (1) The operation and conduct of the child-care facility and the responsibility it assumes for child care;
  - (2) The character, suitability and qualifications of the applicant and other persons directly responsible for the care and welfare of children served;
  - (3) The general financial ability and competence of the applicant to provide necessary care for children and to maintain prescribed standards;
  - (4) The number of individuals or staff required to insure adequate supervision and care of the children served;
  - (5) The appropriateness, safety, cleanliness and general adequacy of the premises, including maintenance of adequate fire prevention and health standards conforming to state laws and municipal codes to provide for the physical comfort, care, well-being and safety of children served;
  - (6) Provisions for food, clothing, educational opportunities, program equipment and individual supplies to assure the healthy physical and mental development of children served, consistent with the definitions contained in this chapter;
  - (7) Maintenance of records pertaining to the admission, progress, health and discharge of children, and provisions for confidentiality of such records;
  - (8) Filing of reports with the department; and
  - (9) Discipline of children.
- (b) If, in a facility for child care, there are children diagnosed as mentally ill, mentally retarded or physically handicapped who are determined to be in need of special mental treatment or of nursing care, or both mental treatment and nursing care, the department shall seek the advice and recommendation of the department of mental health or the state board of health, or of both, regarding the residential treatment and nursing care provided by the facility.

- (c) The department, in applying standards prescribed and published, as herein provided, shall offer consultation through employed staff or other specified persons to assist applicants and licensees in meeting and maintaining minimum requirements for a license and to help them otherwise to achieve programs of excellence related to the care of children served. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §7.)

**§38-7-8. Same -- Revocation or refusal to renew license -- Grounds.**

The department may revoke or refuse to renew the license or the approval of any child-care facility or refuse to issue a full license to the holder of a six-month permit should the licensee or the child-care facility designated on the notice of approval or the holder of a six-month permit:

- (1) Consistently fail to maintain standards prescribed and published by the department;
- (2) Violate the provision of the license issued;
- (3) Furnish or make any misleading or any false statements or report to the department;
- (4) Refuse to submit to the department any reports or refuse to make available to the department any records required by the department in making investigation of the child-care facility for licensing purposes; provided, however, that the department shall not revoke or refuse to renew a license in such case unless it has made written demand on the person, firm or corporation operating the facility requesting such report or reports and such person, firm or corporation fails or refuses to submit such records for a period of 10 days;
- (5) Fail or refuse to submit to an investigation by the department;
- (6) Fail or refuse to admit authorized representatives of the department at any reasonable time for the purpose of investigation;
- (7) Fail to provide, maintain, equip and keep in safe and sanitary condition premises established or used for child care as required under standards prescribed by the department, or as otherwise required by any law, regulation or ordinance applicable to such facility;
- (8) Refuse to display its license or permit; or
- (9) Fail to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provisions for personal care, medical services, clothing, learning experience and other essentials in the proper care, rearing and training of children. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §8.)

**§38-7-9. Same -- Investigation of operation without license; report to attorney general for prosecution.**

Whenever the department is advised or has reason to believe that any person, group of persons or corporation is operating a child-care facility without a license or an approval or a six-month permit, it may make an investigation to ascertain the fact. If it finds that the child-care facility is being operated or has operated without a license or an approval or a six-month permit, it shall report the results of its investigation to the attorney general and to the appropriate district attorney for prosecution; provided, however, that the department may delay in making said report to the attorney general for a reasonable period of time, not to exceed 60 days, in order to give the person, group of persons or corporation operating the child-care facility reasonable

opportunity to apply for a license or an approval or a six-month permit, and, therefore, to meet the standards prescribed in this chapter. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §10.)

**§38-7-11. Advertisements.**

A child-care facility shall keep and maintain such records as the department may prescribe pertaining to the admission, progress, health and discharge of children under the care of the facility. Records regarding children and facts learned about children and their relatives shall be kept confidential by the child-care facility and by the department. The department is authorized to promulgate rules and regulations governing the custody, use and disclosure of such records. Any person who has arrived at the age of 19 and who was placed by the department or by a licensed child-placing agency shall have the right to receive from the department or from the licensed child-placing agency information concerning his placement; except, that the name and address of a natural parent or relative shall be given by the department or the licensed child-placing agency only with the consent of said natural parent or relative. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §13.)

**§38-7-13. Records to be kept by child-care facility; use and disclosure of information.**

Every child-care facility shall keep and maintain such records as the department may prescribe pertaining to the admission, progress, health and discharge of children under the care of the facility. Records regarding children and facts learned about children and their relatives shall be kept confidential by the child-care facility and by the department. The department is authorized to promulgate rules and regulations governing the custody, use and disclosure of information in such records. Any person who has arrived at the age of 19 and who was placed by the department or by a licensed child-placing agency shall have the right to receive from the department or from the licensed child-placing agency information concerning his placement; except, that the name and address of a natural parent or relative shall be given by the department or the licensed child-placing agency only with the consent of said natural parent or relative.

**§38-7-14. Reports by child-care facility.**

Every child-care facility shall make reports to the department on forms prescribed by the department and at times required by the department, giving information pertaining to the children under care and such other facts as the department may require. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §14.)

**§38-7-15. Conditions precedent to bringing child into state for purposes of adoption or placement in child-care facility.**

- (a) No person or agency shall bring or send any child into the state of Alabama for the purpose of placing him or procuring his adoption or placing him in any child-care facility, as defined herein, without first obtaining the consent of the department. The department shall have the power to impose and enforce reasonable conditions precedent to the granting of such consent. Such conditions shall be for the purpose of providing the same care and protection for the child coming into the state of Alabama for placement or adoption as are afforded to a child who is born in the state of Alabama, and such conditions shall include the following:
  - (1) The department shall be authorized to designate an agency in another state from which said child is being sent, or in which said child's parents or guardian may be found, to interview said parent or parents or guardians, or at least one of them,

for the purpose of obtaining social information, background information and medical information about said child;

- (2) The department shall be authorized to receive such information from the designated agency in the other state;
  - (3) The department shall be authorized to receive the birth certificate of said child from the designated agency in the other state or from other appropriate agency in the other state;
  - (4) The department shall be authorized to make a thorough investigation of the proposed foster parent or parents, and their home, to determine whether or not they are financially able, physically able and morally fit to have the care, supervision, training and control of said child;
  - (5) The department shall be authorized to make a thorough investigation of any child-care facility to which any child is being brought or sent to determine conformity to minimum standards prescribed herein for approval or licensing and to determine the suitability of such child-care facility for the care, supervision, training and control of said child;
  - (6) In case said child, subsequent to being brought into the state of Alabama, becomes dependent, neglected or delinquent prior to his adoption or becoming of legal age of majority, said child shall be subject to the laws of the state of Alabama as if he were a resident child of this state;
  - (7) The child will be placed in conformity with the rules and regulations of the department;
  - (8) The person with whom the child is placed shall be responsible for his proper care and training;
  - (9) The department shall have the right of visitation and supervision of the child and the home or the child-care facility in which he is placed until adoption becomes final or the child becomes 18 years of age;
  - (10) The department may, pursuant to the provisions of this chapter, prescribe the conditions of an agreement or contract with the designated out-of-state agency, when a child is brought into the state of Alabama.
- (b) The person or agency receiving the child in Alabama shall report to the department at such reasonable times as the department may direct, as to the location and well-being of the child, so long as he shall remain within the state and until he shall have reached the age of 18 years or shall have been legally adopted. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §15.)

**§38-7-16. Penalties; burden of proof of relationship.**

Any person, group of persons, association or corporation who:

- (1) Conducts, operates or acts as a child-care facility without a license, or a six-month permit or an approval to do so in violation of the provisions of this chapter;
- (2) Makes materially false statements in order to obtain a license or permit;
- (3) Fails to keep the records and make the reports provided under this chapter;
- (4) Advertises any service not authorized by the license or permit held;

- (5) Publishes any advertisement in violation of this chapter;
- (6) Receives within this state any child in violation of section 38-7-15;
- (7) Violates any other provision of this chapter or any reasonable rule or regulation adopted and published by the department for the enforcement of the provisions of this chapter, shall be guilty of a misdemeanor and shall be fined not less than \$100.00 nor more than \$1,000.00 or be imprisoned in the county jail not longer than one year, or both, and, in case of an association of corporation, imprisonment may be imposed upon its officers who knowingly participated in the violation.

In a prosecution under this chapter, a defendant who relies upon the relationship of any child to himself has the burden of proof as to that relationship. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §16.)

**§38-7-17. Duty of district attorney to enforce chapter or prosecute violations.**

It shall be the duty of every district attorney or assistant district attorney within the circuit, county or other territory for which he is elected or appointed to institute action for the enforcement of the provisions of this chapter or to prosecute action for the violation of the provisions of this chapter, or both. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §17.)

**§38-7-18. Mandatory state subsidized child day-care services program.**

- (a) There is hereby provided a mandatory state subsidize child day-care services program within the Department of Human Resources for a minimum average of 6, 500 eligible children at not less than the current Department of Human Resources payment rates for a payment-to-provider cost of not less than \$8, 600,000.00, annually, based on fiscal year ending September 30, 1987.
- (b) There is hereby provided, in addition to any and all other appropriations to the Department of human Resources, a conditional appropriation of \$2, 400, 00.00 for the Alabama special educational trust fund for the fiscal year beginning October 1, 1987, to the Department of Human Resources, to provide child day-care services for an additional 1,800 eligible children. The appropriation herein provided is conditional upon the condition of the Alabama special educational trust fund as ascertained by the Governor, and shall be released only upon order of the Governor. (Acts 1987, No. 87-822, p. 1658, §§ 1, 2.)

**§38-7-19. Powers of department as to transitional living facilities.**

The Department of Human Resources may contract for utility services, purchase real or personal property, or enter into lease agreements for and may operate residences to be used as transitional living facilities to provide transitional living program services to an eligible child as defined in Section 38-7-2. (Acts 1993, 1<sup>st</sup> Ex. Sess., No. 93-904, p. 197, § 2.)

## CODE OF ALABAMA, 1975

### TITLE 38-13-1 -- 38-13-12

#### **Section 38-13-1 Legislative findings and intent.**

Under the National Child Protection Act of 1993, Public Law 103-209, 42 U.S.C. &sect; 5119, et seq., the states are permitted to implement a computerized information system to provide child abuse crime information through the Federal Bureau of Investigation National Criminal History Record Information System. The states may conduct a nationwide criminal history background check for the purpose of determining whether an individual who shall have unsupervised access to children, the elderly, or individuals with disabilities has been convicted of a crime that bears upon the fitness of the individual to provide care to or have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities as defined in this chapter. The Legislature finds that there is an important state interest and it is in the best interest of the children, the elderly, and individuals with disabilities of Alabama to protect them from those persons who may inflict physical or mental injury or abuse, sexual abuse or exploitation, or maltreatment or other mistreatment upon children, the elderly, or individuals with disabilities. Therefore, it is the intent of the Legislature to provide for the implementation of a system that allows the Department of Human Resources, licensed child placing agencies, and child and adult care facilities to ensure that current licensees, license and volunteer applicants, prospective employees, current employees, and volunteers are suitable for employment, to perform volunteer work, or to hold a license, permit, approval, or certification and have not been convicted of a crime that bears upon their fitness to provide care or have responsibility for the safety or well-being of children, the elderly, or individuals with disabilities as defined in this chapter.

***(Act 2000-775, & amp; amp; amp; sect; 1.)***

#### **Section 38-13-2 Definitions.**

When used in this chapter, the following words shall have the following meanings:

- (1) ADULT. An individual 19 years of age and older.
- (2) ADULT CARE FACILITY. A person or entity holding a Department of Human Resources license or approval or certification to provide care, including foster care, for adults.
- (3) APPLICANT. A person or entity who submits an application for license as a child care or adult care facility to the Department of Human Resources or a child placing agency, or an application for employment or for a volunteer position to a Department of Human Resources licensed child care or adult care facility. With regards to child care and adult care facilities in a home setting, the term includes an adult household member whose residence is in the home. The term also includes an individual who submits an application for a volunteer position or for employment with the Department of Human Resources in a position in which the person has unsupervised access to children, adults, or individuals with disabilities as one of the essential functions of the job. The term also includes an applicant for approval as an adoptive parent of a child or as a foster parent of an adult or child.
- (4) CARE. The provision of care, treatment, education, training, instruction, supervision, or recreation to children, adults, or individuals with disabilities.

- (5) CARETAKER SETTING. A building, structure, or location, public or private property, or vehicle, utilized for or involved in the providing of care, education, training, instruction, or supervision of children, adults, or individuals with disabilities or transportation in connection with activity provided by a licensed, approved, or certified child or adult care facility.
- (6) CHIEF EXECUTIVE OFFICER. The Commissioner of the Department of Human Resources, the director of a county department of human resources, or the head of an employer covered by this chapter, but not specifically enumerated.
- (7) CHILD or CHILDREN. An individual under 19 years of age.
- (8) CHILD CARE FACILITY. A person or entity holding a Department of Human Resources license, permit, or approval to provide child care, including foster care, under Chapter 7 of this title. The term excludes exempt child care facilities.
- (9) CHILD PLACING AGENCY. A person or entity licensed by the Department of Human Resources under Chapter 7 of this title, issuing approvals to foster family homes and adoptive homes.
- (10) CONVICTION. A determination of guilt as the result of a plea, including a plea of nolo contendere, or a trial.
- (11) CRIMINAL HISTORY BACKGROUND INFORMATION CHECK. The review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation and the Alabama Department of Public Safety involving an arrest or conviction by a criminal justice agency, including, but not limited to, child abuse crime information as defined by 42 U.S.C. & sect; 5119, the National Child Protection Act of 1993, conviction record information, fingerprint cards, correctional data and release information, and identifiable descriptions and notations of convictions. Criminal history background information shall not include any analytical records or investigative reports that contain intelligence information or criminal investigation information.
- (12) CURRENT. An individual who is presently employed, licensed, or approved, or working as a volunteer on November 1, 2000.
- (13) DAILY LIVING TASKS. Activities of daily living, including walking, working, learning, grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, transportation, managing money, maintaining a residence, writing, and using telephones, computers, and other automated communication devices.
- (14) ELDERLY. An individual 65 years of age or older.
- (15) EMPLOYEE. An individual currently in the service of an employer for compensation, full-time or part-time, and employed by contract or at will, in which the employer has the authority to control the person in the material details of how work shall be performed and when compensation shall be provided.

- (16) **EMPLOYER.** An individual, person, group of persons, association, partnership, corporation, limited liability company or partnership, business, or other entity which hires employees, has volunteers, or contracts with others to provide personnel to work with or provide care to children, adults, or individuals with disabilities in a caretaker setting.
- (17) **ESSENTIAL FUNCTIONS.** The fundamental, not merely marginal, job duties of the employment as determined by a written job description or the judgement of the employer.
- (18) **EXEMPT CARE FACILITY.** A person or entity exempt by law from licensure by the Department of Human Resources or a child placing agency, including church day care, child centers, or elder centers.
- (19) **INDIVIDUAL.** A natural person.
- (20) **INDIVIDUAL WITH DISABILITIES.** A person with a mental or physical impairment who requires assistance to perform one or more daily living tasks.
- (21) **LAW ENFORCEMENT.** The sheriff's department of a county or the police department of a municipality.
- (22) **LICENSE.** A license, permit, certification, approval, registration, or other form of permission required by law by whatever designation for a child care facility, adult care facility, child placing agency, foster parent or foster home, adoptive parent or adoptive home, or any other person or entity in which an individual has unsupervised access to children, the elderly, or individuals with disabilities.
- (23) **LICENSED SOCIAL WORKER.** A social worker licensed by the Alabama State Board of Social Work Examiners to conduct family home studies and psychosocial assessments in adoptive or custody cases by court order or for treatment not otherwise required to conduct a criminal history check.
- (24) **LICENSEE.** Holder of a license or approval and an adult household member whose residence is in the home in regards to child care and adult care facilities in a home setting.
- (25) **PERSON or ENTITY.** A natural person, sometimes referred to as an individual, an owner or operator of any adult care facility, child care facility, child placing agency, exempt child care facility, or licensee, whether an individual, corporation, limited liability company or partnership, partnership, association, or other legal entity or group, and a board member, an officer, member or partner of an entity who has direct contact with children, the elderly, or individuals with disabilities in care.
- (26) **REASONABLE SUSPICION.** Belief by a prudent person that reasonable articulable grounds exist to suspect that the employee's past or present behavior should be reviewed to determine if such behavior or conduct bears upon the individual's fitness to teach or supervise or have responsibility for the safety and well-being of children, the elderly, or persons with disabilities as defined in this chapter.
- (27) **REPORT.** A written statement of criminal history background information.

- (28) RESIDENCE. Place of abode, domicile, or dwelling with intention to remain permanently and continuously or for an indefinite or uncertain length of time.
- (29) SEX CRIME. Includes the following:
- a. Enticing a child to enter a vehicle, room, house, office, or any other place for immoral purposes, as proscribed by Section 13A-6-69.
  - b. Incest, when the offender is an adult and the victim is a minor, as proscribed by Section 13A-13-3.
  - c. Kidnapping of a minor, except by a parent, in the first or second degree, as proscribed by Section 13A-6-43 or Section 13A-6-44.
  - d. Promoting prostitution in the first or second degree, as proscribed by Section 13A-12-111 or Section 13A-12-112.
  - e. Rape in the first or second degree, as proscribed by Section 13A-6-61 or Section 13A-6-62.
  - f. Sexual misconduct, as proscribed by Section 13A-6-65.
  - g. Sexual torture, as proscribed by Section 13A-6-65.1.
  - h. Sexual abuse in the first or second degree, as proscribed by Section 13A-6-66 or Section 13A-6-67.
  - i. Sodomy in the first or second degree, as proscribed by Section 13A-6-63 or Section 13A-6-64.
  - j. Soliciting a child by computer for the purposes of committing a sexual act and transmitting obscene material to a child by computer as proscribed by Sections 13A-6-110 and 13A-6-111.
  - k. Violation of the Alabama Child Pornography Act, as proscribed by Section 13A-12-191, 13A-12-192, 13A-12-196, or 13A-12-197.
  - l. Any solicitation, attempt, or conspiracy to commit any of the offenses listed in paragraphs a. to k., inclusive.
  - m. A crime listed in the Community Notification Act, Chapter 20 of Title 15.
  - n. Conviction for a violation or attempted violation of an offense committed outside the State of Alabama or under federal law is a sex crime or any other crime if the offense would be a crime in Alabama.
- (30) SUITABILITY CRITERIA.
- a. Convictions for any of the following crimes shall make an individual unsuitable for employment, volunteer work, approval, or licensure:
    1. Murder, manslaughter, or criminally negligent homicide.
    2. A sex crime.
    3. A crime that involves the physical or mental injury or maltreatment of a child, the elderly, or an individual with disabilities.
    4. A crime committed against a child.
    5. A crime involving the sale or distribution of a controlled substance.

6. Robbery.
  7. A crime or offense committed in another state or under federal law which would constitute any of the above crimes in this state.
- b. Conviction for any crime listed in the Adoption and Safe Families Act, 42 U.S.C. & sect; 671(g)(20), shall disqualify a person from being approved or continuing to be approved as a foster parent or adoptive parent and a convicted person shall be deemed unsuitable for employment, volunteer work, approval, or licensure as a foster parent or adoptive parent.
  - c. The Department of Human Resources may set other disqualifying convictions by rule under the Administrative Procedure Act, Section 41-22-1, et seq., for Department of Human Resources licensed child or adult care facilities.
- (31) SUITABILITY DETERMINATION. A decision that an individual is or is not suitable for employment, volunteer work, or licensure based upon the existence of a prohibited criminal conviction.
- (32) UNSUPERVISED ACCESS TO A CHILD OR CHILDREN, THE ELDERLY, OR AN INDIVIDUAL WITH DISABILITIES. Contacts, interviews, questions, examinations, interaction, or communications outside the presence, supervision, and control of someone other than a child or elderly or disabled individual in care during the provision of care, education, training, instruction, supervision, or other employment or license related activities.
- (33) VOLUNTEER. An individual who provides services without an express or implied promise of compensation, but shall not include the parent, family member, legal custodian, or legal guardian of a child, the elderly, or disabled individual in care.
- (34) WRITTEN CONSENT. A signed statement by the applicant or employee containing all of the following:
- a. The name, address, date of birth, race, gender, and Social Security number appearing on a valid identification document as defined in subsection (d) of 18 U.S.C. & sect; 1028. If the applicant does not have a Social Security number because of sincerely held personal beliefs, the Social Security number shall not be required and the Department of Human Resources and the Department of Public Safety shall provide an alternative means of identification and procedure.
  - b. Notice to the applicant or employee of the right to obtain a copy of the background check report, challenge the accuracy and completeness of any information contained in the report, and to obtain a prompt determination as to the validity of a challenge.
  - c. Name, address, and telephone number of the employer or licensing entity for which the criminal history information is being sought.
  - d. Release of the criminal history report to the Department of Human Resources.

**(Act 2000-775, & amp; amp; sect; 2.)**

**Section 38-13-3 Criminal history background information check required for certain individual; exemptions.**

- (a) On November 1, 2000, every employer, child care facility, adult care facility, the Department of Human Resources, and child placing agency shall request the Department of Public Safety to conduct a criminal history background information check for the following:
- (1) An employment applicant, employee or volunteer of an employer, child care facility, adult care facility, or child placing agency.
  - (2) A current foster parent for a child or adult or adult household member of a foster family or applicant and an adult household member of a foster family seeking approval to operate as a foster parent or foster family home for a child placing agency or the Department of Human Resources. No criminal history background information check shall be conducted under this chapter on a current foster parent or household member of a foster family if a Federal Bureau of Investigation and Alabama Department of Public Safety criminal history background information check has already been conducted under other law. Subsequent convictions of foster parents, or convictions entered into the system subsequent to the initial report, shall be sent by the Department of Public Safety to the Department of Human Resources as provided in this chapter.
  - (3) An applicant in a position in the Department of Human Resources which requires unsupervised access to children, the elderly, or individuals with disabilities as one of the essential functions of the job. No current employee of the Department of Human Resources shall be subjected to a criminal history background information check except upon reasonable suspicion. Criminal history background checks shall be required for prospective and current personnel under contract with the Department of Human Resources or working with another entity under contract with the Department of Human Resources, students, mentors, and volunteers in positions requiring unsupervised access to children, the elderly, or persons with disabilities as one of the essential functions of the job. The Department of Human Resources shall pay any fees related to checks required pursuant to this subdivision.
  - (4) A current licensee or applicant for a license through the Department of Human Resources to operate a child care or adult care facility.
  - (5) A parent applicant for a child adoptive placement through the Department of Human Resources or child placing agency and any Department of Human Resources or child placing agency approved adoptive parent prior to entry of a final decree of adoption. No criminal history background information check shall be conducted under this chapter on a current adoptive parent or household member of an adoptive family if a Federal Bureau of Investigation and Alabama Department of Public Safety criminal history background information check has already been conducted under other law. Subsequent convictions of adoptive parents, or convictions entered into the system subsequent to the initial report, shall be sent by the Department of Public Safety to the Department of Human Resources as elsewhere provided in this chapter.
- (b) An employer, child care facility, adult care facility, the Department of Human Resources, or a child placing agency may only request a criminal history background information check by its chief executive officer, or his

or her designee authorized in writing and notarized, and law enforcement shall render assistance, including assistance in obtaining fingerprints required for submission of a request to the Department of Public Safety.

- (c) Every employee, volunteer or applicant, for employment or a volunteer position, licensee, Department of Human Resources adoptive parent applicant or approved adoptive parent, or applicant for a license to the Department of Human Resources to operate a child care or adult care facility shall submit two sets of fingerprints and sign a written consent to obtain the criminal history background information. Fingerprints shall not be required when a disability prevents a person from being fingerprinted. Disabilities preventing fingerprinting include the loss of both hands, severe scarring of all fingers, closed paralytic hands, and similar disabilities. In cases involving disability, a written consent to obtain available criminal history background information by name only shall be obtained. No one who fails or refuses to give written consent or submit fingerprints necessary to obtain criminal history background information may be employed, allowed to perform volunteer or other work, approved or issued a license, or allowed to retain a license or approval by the Department of Human Resources, an employer, child care facility, adult care facility, or child placing agency.
  
- (d) Child care facilities or adult care facilities exempt from Department of Human Resources licensing shall not be required to comply with this chapter, but may voluntarily collect and forward two complete acceptable sets of fingerprints, the written consent, and nonrefundable fee from applicants or employees to the Department of Public Safety to request a criminal history background information check which shall be processed pursuant to this chapter. Licensed social workers conducting home studies may also request a criminal history background check which shall be processed pursuant to this chapter. Provided, however, if a license-exempt child care facility operated as part of a church ministry or religious school does not choose to comply with this chapter on a voluntary basis, then the employee or prospective employee of the child care facility shall request a criminal history background check, and the request shall be processed in the same manner as for other employees or applicants under the provisions of this chapter. The Department of Human Resources shall, prior to the disbursement of any subsidized child care funds, require all employees and applicants of legally operating child care facilities to submit verification of the application for a criminal history background check and the results thereof when obtained. Upon reasonable suspicion that the individual has a criminal conviction or has not had a criminal history background check conducted, the Department of Human Resources shall have the right to require employees of license-exempt facilities to submit each application for a criminal history background check and the results thereof when obtained.

**(Act 2000-775, & amp; amp; sect; 3.)**

**Section 38-13-4 Mandatory criminal history check notice; suitability determinations; checks on subsequent activity.**

- (a) Every employer, child care facility, adult care facility, the Department of Human Resources, and child placing agency required to obtain a criminal history background information check pursuant to this chapter shall obtain, prior to or upon the date of employment, or issuance of a license or approval or renewal thereof, and maintain in the agency or personnel file, a request with written consent for the criminal history background information check and a statement signed by the applicant, volunteer, or employee indicating whether he or she has ever been convicted of a crime, and if so, fully disclosing all convictions. The statement shall include a notice and questionnaire the same as or similar to the following:

"MANDATORY CRIMINAL HISTORY CHECK NOTICE: Alabama law requires that a criminal history background information check be conducted on all persons who hold a license or work in a Department of Human Resources licensed child care or adult care facility, a foster or adoptive home approved by the Department of Human Resources, or a licensed child placing agency, including all officers and agents of the entity. You are required to provide full, complete, and accurate information on your criminal conviction history upon application for a license or employment. This information shall be used to determine your suitability to provide care to children, the elderly, or disabled individuals. Unless a criminal history background information check report and suitability determination have previously been obtained, you must complete a written request and consent for a criminal history background information check with fingerprints at the time of application for employment. Refusal to complete these documents or providing false information shall result in refusal of employment, approval, or licensure. The term conviction includes a determination of guilt by a trial, by a plea of guilty, or a plea of nolo contendere. You are required to notify your employer, licensing agency, or entity where you are performing volunteer work of any criminal conviction occurring subsequent to the date of completion of this notice. Any individual determined to have submitted false information shall be referred to the district attorney or law enforcement for investigation and possible prosecution. An individual who intentionally falsifies or provides any misleading information on the statement is guilty of a Class A misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000) and imprisonment for not more than one year.

"Convictions for any of the following crimes shall make an individual unsuitable for employment, volunteer work, approval, or licensure:

- "1. Murder, manslaughter, or criminally negligent homicide.
- "2. A sex crime.
- "3. A crime that involves the physical or mental injury or maltreatment of a child, the elderly, or an individual with disabilities.
- "4. A crime committed against a child.
- "5. A crime involving the sale or distribution of a controlled substance.

"A sex crime includes the following:

- "a. Enticing a child to enter a vehicle, room, house, office, or any other space for immoral purposes, as proscribed by Section 13A-6-69 of the Code of Alabama 1975.

- "b. Incest, when the offender is an adult and the victim is a minor, as proscribed by Section 13A-13-3 of the Code of Alabama 1975.
  - "c. Kidnapping of a minor, except by a parent, in the first or second degree, as proscribed by Section 13A-6-43 or Section 13A-6-44 of the Code of Alabama 1975.
  - "d. Promoting prostitution in the first or second degree, as proscribed by Section 13A-12-111 or Section 13A-12-112 of the Code of Alabama 1975.
  - "e. Rape in the first or second degree, as proscribed by Section 13A-6-61 or Section 13A-6-62 of the Code of Alabama 1975.
  - "f. Sexual misconduct, as proscribed by Section 13A-6-65 of the Code of Alabama 1975.
  - "g. Sexual torture, as proscribed by Section 13A-6-65.1 of the Code of Alabama 1975.
  - "h. Sexual abuse in the first or second degree, as proscribed by Section 13A-6-66 or Section 13A-6-67 of the Code of Alabama 1975.
  - "i. Sodomy in the first or second degree, as proscribed by Section 13A-6-63 or Section 13A-6-64 of the Code of Alabama 1975.
  - "j. Soliciting a child by computer for the purposes of committing a sexual act and transmittal of obscene material to a child by computer as proscribed by Sections 13A-6-110 and 13A-6-111 of the Code of Alabama 1975.
  - "k. Violation of the Alabama Child Pornography Act, as proscribed by Section 13A-12-191, 13A-12-192, 13A-12-196, or 13A-12-197 of the Code of Alabama 1975.
  - "l. Any solicitation, attempt, or conspiracy to commit any of the offenses listed in paragraphs a. to k., inclusive.
  - "m. A crime listed in the Community Notification Act, Chapter 20 of Title 15 of the Code of Alabama 1975.
- "6. Conviction for a crime listed in the federal Adoption and Safe Families Act as prohibiting a person from being a foster parent or adoptive parent shall be deemed to make the convicted person unsuitable for employment, volunteer work, approval, or licensure as a foster parent or adoptive parent.
- "7. Conviction for a violation or attempted violation of an offense committed outside the State of Alabama or under federal law is a sex crime or any other crime listed in this notice if the offense would be a crime listed in this notice in Alabama.

**"CRIMINAL HISTORY STATEMENT**

"Have you ever had a suitability determination made by the Department of Human Resources in connection with a previous criminal history information background check? Yes (\_\_\_) No (\_\_\_).

"Have you ever been convicted of a crime? Yes (\_\_\_) No (\_\_\_). If yes, state the date, crime, location, punishment imposed, and whether the victim was a child or an elderly or disabled individual.

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"Date \_\_\_\_\_ Signature \_\_\_\_\_."

- (b) An individual who fails or refuses to provide a statement shall not be employed, allowed to work or volunteer, or issued a license or approval as defined in this chapter. Upon receipt of a signed criminal history statement which does not indicate conviction for a crime prohibiting employment under the suitability criteria, an employer, including the Department of Human Resources, may employ an applicant or allow a volunteer or contract provider to work provisionally pending receipt of a suitability determination from the Department of Human Resources.
- (c) No later than the five business days after employment or a reasonable time after completion of application for a license or approval, an employer, the Department of Human Resources, or child placing agency shall mail or deliver a request for a criminal history background information check to the Department of Public Safety accompanied by the following:
  - (1) Two complete sets of fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.
  - (2) Written consent from the applicant, employee, or volunteer for the release of the criminal history background information to the Department of Human Resources.
  - (3) The fee.
- (d) Upon receipt of a suitability determination from the Department of Human Resources that a person or entity is suitable for employment, volunteer work, licensure, or approval based on the criminal history background information check, an employer, a child care facility, adult care facility, a child placing agency, or the Department of Human Resources may make its own determination of employment, licensure, or approval. This chapter shall not create any right to employment, work, approval, or licensure. Upon receipt of a determination from the Department of Human Resources that an individual is unsuitable for employment, licensure, approval, or volunteer work, an employer, the child care facility, adult care facility, child placing agency, or Department of Human Resources shall terminate the individual from employment or volunteer work or shall not employ or use the individual. Termination of employment may be delayed by the employer to allow the individual to challenge either the accuracy or completeness of the criminal history information background report or the suitability determination made by the Department of Human Resources. The Department of Human Resources or child placing agency shall suspend or revoke a license or approval or deny a license or approval application to an individual receiving an unsuitability determination. As an alternative to termination of employment, the Department of Human Resources may transfer a permanent Merit System employee to an available position for which the employee is qualified where unsupervised access to children, the elderly, or persons with disabilities shall not be an essential function of the job.
- (e) If a review of a criminal history background information check or other information received reveals that the person has submitted false information, the employer, child care facility, adult care facility, child placing agency, or Department of Human Resources shall terminate the employee or volunteer. The Department of Human Resources or child placing agency shall revoke the approval or license of a person or entity when the person or entity submits false information in a review of criminal history background information check or other information. The Department of Human Resources shall be

notified of the false information and shall refer the case to an appropriate law enforcement agency or district attorney for investigation and prosecution.

- (f) Only one criminal history background information check shall be required on an individual regardless of subsequent changes in employment or licensing or approval status. Subsequent criminal history background information checks may be conducted by the employer or licensing or approval entity. The licensing or approval entity shall pay the cost for subsequent criminal history background information checks. If the statement signed by the applicant or employee states that a criminal history background information check has been performed and suitability determination issued on the individual, the employer or licensing agency may request at the time of application only a suitability determination from the Department of Human Resources on the check previously performed, within five business days of employment, or completion of license or approval application, submitting the same kind of information and consent for the request for suitability determination as required by the written consent for a criminal history background information check.
- (g) Upon being notified that an individual has already had a criminal history background information check performed by the Department of Education pursuant to the Alabama Child Protection Act, Chapter 22A of Title 16, the Department of Human Resources shall request and the Department of Education shall provide criminal history background reports and reports on subsequent convictions, or convictions entered into the system subsequent to the initial report, to the Department of Human Resources without the payment of an additional fee, provided there are no violations of federal laws.

***(Act 2000-775, & amp; amp; amp; amp; amp; sect; 4.)***

**Section 38-13-5 Additional requirements.**

- (a) An applicant, licensee, volunteer, or employee, upon request, shall submit the following items:
  - (1) Two functional, acceptable fingerprint cards, bearing the fingerprints of the individual, properly executed by a law enforcement agency or individual properly trained in fingerprinting techniques.
  - (2) Written consent authorizing the release of any criminal history background information to the Department of Human Resources.
  - (3) A written statement signed by the applicant, volunteer, or employee indicating whether he or she has ever been convicted of a crime, and if so, fully disclosing all convictions. The statement shall include a notice and questionnaire in the form required in subsection (a) of Section 38-13-4.
  - (4) The fee of an applicant.
- (b) An applicant, licensee, volunteer, or employee shall notify the prospective or current employer, licensing agency, or entity for whom volunteer work is being performed of any criminal convictions occurring subsequent to the date of completion of the notice in Section 38-13-4.

***(Act 2000-775, & amp; amp; sect; 5.)***

**Section 38-13-6 Fees.**

- (a) A nonrefundable fee to be paid for the criminal history background information check shall conform to the guidelines promulgated pursuant to 42 U.S.C. & sect; 5119, the National Child Protection Act of 1993, and state law.
- (b) The Department of Public Safety may charge a fee in the amount prescribed in Section 32-2-61, of Title 32, for the cost of processing the request. The Department of Public Safety shall charge no larger fee for requests than charged for requests received from those entities. The fee charged for criminal history background information checks shall not exceed the statutory and regulatory amounts set under existing guidelines and no additional administrative fees, except for the cost of mailings, shall be charged which would increase the cost of the criminal history background information check.
- (c) An applicant for employment shall be responsible for the cost of the criminal history background information check. An applicant shall not be required to pay the fee until the prospective employing entity is prepared to consider the applicant and request a criminal history background information check. The chief executive officer of the prospective employing entity may pay the fee of an applicant.
- (d) For any volunteer or applicant for a volunteer position, the fee for the criminal history background information check may be paid by the volunteer or by the entity requesting volunteer work.
- (e) An applicant for a license or approval shall pay the fee for the criminal history background information check at the time the application for the license is submitted; except as provided herein, the Department of Human Resources may pay the fee for adult and child foster care applicants and child adoption applicants.
- (f) For an employing entity that requests a criminal history background information check on a current employee, the employing entity shall pay the fee for the criminal history background information check. The employee may be required to pay the fee or a portion thereof provided there shall be no violation of federal minimum wage requirements.
- (g) A fee paid for which a criminal history background information check is not performed shall be refunded to the applicant, the individual, or the entity requesting the criminal history background information check.

***(Act 2000-775, & amp; amp; sect; 6.)***

**Section 38-13-7 Duties of Departments of Public Safety and Human Resources; review of determinations.**

- (a) Criminal history background information checks shall be performed by the Department of Public Safety upon request by an employer, child care facility, adult care facility, or child placing agency authorized to make a request, or the Department of Human Resources. The Department of Public Safety shall provide a criminal history background check within a reasonable time of the receipt of the request. National criminal history background checks shall be requested by the Department of Public Safety from the Federal Bureau of Investigation within a reasonable time of the request. The Department of Public Safety, upon receipt of the criminal history background report from the Federal

Bureau of Investigation, shall forward the report to the Department of Human Resources within a reasonable period.

- (b) Criminal history background information reports shall be sent directly from the Department of Public Safety to the Department of Human Resources within a reasonable time from the receipt of the report from the Federal Bureau of Investigation. A copy of a criminal history report from the Department of Public Safety and Federal Bureau of Investigation shall be sent by the Department of Human Resources to the applicant or employee by certified mail or personal service. The Department of Human Resources shall review the criminal history record information report and determine whether the applicant, employee, or volunteer meets the suitability criteria for employment or licensure based on the criminal history background information check. The Department of Human Resources shall issue a written suitability determination to the applicant or employee and to the licensing entity or chief executive officer of the child care facility or adult care facility requesting the criminal history background information check. The Department of Public Safety shall notify the Department of Human Resources of a subsequent conviction, or convictions entered into the automated system subsequent to the initial report, for a crime committed on an individual for whom a criminal history background information report has been sent. The Department of Human Resources shall include the conviction in an amended or subsequent suitability determination.
- (c) A person may contest the accuracy or completeness of the Alabama criminal history background information check pertaining to him or her with the Department of Public Safety according to procedures established by that agency. The person or his or her legal counsel may review at the Department of Human Resources a copy of the Alabama criminal history background information report from the Department of Public Safety. If, upon review by the Department of Public Safety, the information is determined to be incorrect or incomplete, the information shall be corrected appropriately, and the Department of Human Resources shall be provided with the corrected information.
- (d) The Department of Human Resources shall issue a suitability determination and maintain a confidential file on individuals for whom a criminal history background information report or report updates have been received. The Department of Human Resources may issue a suitability determination based upon the criminal history report on file without the requirement of a new criminal history background information check. If no report or if only an incomplete criminal history report can be located in the files of the Department of Human Resources, the individual shall be required to submit to a new criminal history background information check.
- (e) Within 30 days of the date of notification, an individual determined unsuitable for approval, licensure, employment, or volunteer work by the Department of Human Resources based upon a disqualifying conviction may request in writing reversal of the determination of unsuitability if the conviction is not for a sex crime or a crime committed against a child, an elderly individual, or an individual with disabilities. An individual with a conviction excluded by federal law from being approved as a foster or adoptive parent, as any other child care or adult care provider, or volunteer may not be considered for reinstatement. In the case of a felony conviction, 10 years shall have lapsed since the sentence was served or the probation or parole ended, whichever is later, with no subsequent conviction. In the case of a misdemeanor conviction, five years shall have lapsed since the sentence was served, or the probation or parole ended, whichever is later, with no subsequent conviction. The individual shall affirmatively demonstrate to the Department of Human Resources successful rehabilitation by clear and convincing

evidence. In determining whether an individual has affirmatively demonstrated successful rehabilitation, all of the following shall be considered:

- (1) Nature and responsibility of the position which the convicted person would hold or has held.
  - (2) Nature and seriousness of the offense committed.
  - (3) Circumstances under which the offense occurred.
  - (4) Date of the offense.
  - (5) Age of the person when the offense was committed.
  - (6) Whether the offense was an isolated or repeated incident.
  - (7) Social conditions which may have contributed to the offense.
  - (8) An available probation or parole record, report, or recommendation.
  - (9) Evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful business or employment history, and the recommendation of his or her supervisors.
- (f) The Department of Human Resources and the Department of Public Safety may adopt rules and regulations to implement the procedures and requirements of this chapter pursuant to the Administrative Procedure Act, Section 41-22-1, et seq.

***(Act 2000-775, & amp; amp; sect; 7.)***

**Section 38-13-8 Confidentiality and disclosure of reports.**

- (a) All reports of criminal history background information received by the Department of Human Resources from the Department of Public Safety shall be confidential and marked confidential with no further disclosure and shall not be made available for public inspection.
- (b) All criminal history background information reports shall be excluded from any requirement of public disclosure as a public record.
- (c) Without additional public disclosure, the following release of the criminal history background information report shall not be construed to violate this section:
  - (1) Showing the report to the applicant or current employee.
  - (2) Release of the report to a court of competent jurisdiction in the event of litigation brought by the applicant or employee.
  - (3) Release of the report to a court of competent jurisdiction upon a finding that the information is material to the issues of the case before the court.
  - (4) Use of the report in preparation, investigation, and presentation during a criminal prosecution, or in any administrative proceeding involving the challenge to a suitability determination, or revocation of a license or denial of an application for a license by the Department of Human Resources.
  - (5) Release to anyone with the written consent of the employee or volunteer.

- (d) A person having access to criminal history background information reports and releasing the reports pursuant to this chapter shall be required to maintain a register consistent with the National Child Protection Act of 1993, Public Law 103-209, 42 U.S.C. & sect; 5119, et seq.
- (e) Nothing in this chapter shall be construed to prohibit the distribution of employment or licensing status information to an interested party.

***(Act 2000-775, & amp; amp; sect; 8.)***

**Section 38-13-9 Violations.**

- (a) A person convicted of the following actions under this chapter shall be guilty of a Class A misdemeanor:
  - (1) Violating the confidentiality of records.
  - (2) Violating lawfully adopted policies pursuant to this chapter.
  - (3) Knowingly, willfully, and intentionally making or transmitting a false or misleading report or information concerning past convictions as required under this chapter.
  - (4) Knowingly, willfully, and intentionally failing to report subsequent convictions as required by this chapter.
- (b) A person who knowingly submits false information concerning past convictions on an application for employment or other form required for disclosure of criminal convictions may be subject to loss of employment and to the loss of any license issued by the Department of Human Resources or child placing agency.

***(Act 2000-775, & amp; amp; sect; 9.)***

**Section 38-13-10 No cause of action established; immunity not waived.**

Nothing in this chapter is intended to create or establish new causes of action in any court. Nothing in this chapter shall be construed as a waiver of any sovereign or qualified immunity.

***(Act 2000-775, & amp; amp; sect; 10.)***

**Section 38-13-11 Disposition of fees.**

All fees received by the Department of Public Safety for criminal history background information checks conducted pursuant to this chapter shall be deposited to the Public Safety Automated Fingerprint Identification System Fund, to be appropriated to and expended by the Department of Public Safety in accordance with Section 32-2-61.

***(Act 2000-775, & amp; amp; sect; 11.)***

**Section 38-13-12 Construction.**

This chapter is supplementary and shall be construed in pari materia with other laws; provided, however, that to the extent that this chapter specifically conflicts with other laws pertaining to

criminal history background information checks, this law shall take precedence. Nothing contained in this chapter shall be construed to diminish, reduce, or conflict with the authority of the Department of Human Resources to interpret and apply appropriate federal and state laws governing that agency and its programs.

***(Act 2000-775, & amp; amp; sect; 13.)***

## **ADVOCACY AGENCIES AND ORGANIZATIONS**

### **GENERAL FAMILY AND CHILD ISSUES**

Alabama Foster and Adoptive Parent Association  
Foster Parent Support Line  
1-888-545-2372

Alabama Family Ties  
Montgomery Office  
Location: 315 St. Luke  
Montgomery, AL 36117  
(334) 270-8244

Mailing: PO Box 241225  
Montgomery, AL 36124-1225

Alabaster Office  
1120 8<sup>th</sup> Avenue SW  
Alabaster, AL 35007  
(205) 664-8737

Statewide  
1-877-834-0615  
E-mail: Famties@earthlink.net

American Civil Liberties Union of Alabama, Children's Advocacy Project  
P.O. Box 447  
Montgomery, AL 36101  
(334) 262-9254

### **EDUCATION ONLY**

Special Education Action Committee

**MOBILE AREA**  
600 Bel Air Boulevard  
Mobile, AL 36606  
P.O. Box 161274  
Mobile, AL 36616-2274  
1-800-222-7322  
FAX (334) 473-7877

**BIRMINGHAM AREA**  
25 West Oxmoor Road  
Birmingham, AL 35209  
(205) 941-0313  
FAX (205) 941-0987

**MONTGOMERY AREA**  
474 South Court  
Montgomery, AL 36104  
(334) 263-6180  
FAX (334) 263-7139

**HUNTSVILLE AREA**  
3322 South Memorial Parkway Suite 238  
Huntsville, AL 35801  
(256) 882-3911  
FAX (256) 882-3974

## **EDUCATION AND DISABILITIES**

Alabama Disabilities Advocacy Program  
The University of Alabama  
Box 870395  
Tuscaloosa, AL 35487-0395  
1-800-826-1675

## **CHILD ABUSE**

Child Protect-Montgomery  
1031 Ann Street  
Montgomery, AL 36107  
(334) 262-1220

National Resource Center for Child Sexual Abuse (Serves Huntsville area only)  
200 West Side Square, Suite 700  
Huntsville, AL 35801  
(256) 534-6868  
FAX (256) 534-6883

## **GENERAL - OTHER**

Legal Services Corporation of Alabama  
**See Attachment**

Legal Services of Metro Birmingham  
**See Attachment**

Legal Services of North Central Alabama  
**See Attachment.**

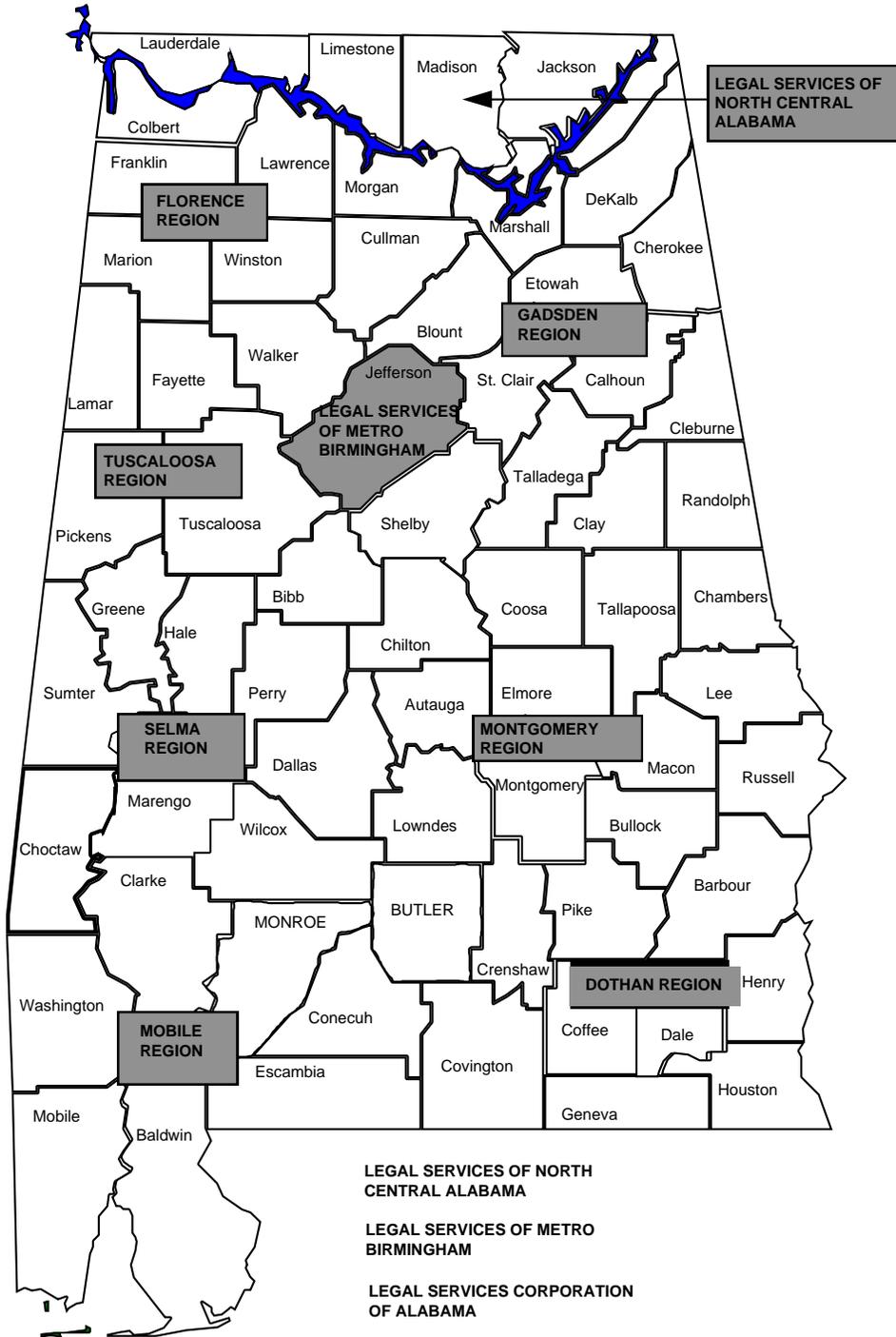
Consortium on Quality Childcare Standards  
Dr. Wanda Newell Washington, Director  
770 Washington Avenue, Suite 226  
Montgomery, AL 36104  
(334) 353-1006

Alabama ARISE  
207 Montgomery Street  
Montgomery, AL 3610  
(334) 832-9060

Voices for Alabama's Children  
1 Retail Drive  
Montgomery, AL 36110

(334) 213-2410

# LEGAL SERVICES CORPORATION OF ALABAMA



OFFICE	ADDRESS		CLIENT PHONE CALLS ONLY	COUNTIES SERVED
Main (Legal Services Corp. of Alabama)	500 Bell Building 207 Montgomery St. Montgomery 36104	264-1471		
Montgomery Regional	600 Bell Building 207 Montgomery St. Montgomery 36104	832-4570	800-844-5342	Montgomery, Autauga, Elmore, Chilton, Macon, Bullock, Lowndes
Opelika Satellite	P.O. Box 591; Opelika 36803		800-331-5826	Lee, Chambers, Russell, Tallapoosa
Mobile Regional	601 Van Antwerp Building; 103 Dauphin St.; Mobile 36602	433-6560	800-403-872	Mobile; Baldwin
Monroeville Satellite	P.O. Box 629; Monroeville 36461		800-819-7685	Monroe, Escambia, Washington, Clarke, Conecuh
Selma Regional	P.O. Box 954; Selma 36701	875-3770	800-644-6028	Dallas, Wilcox, Perry, Marengo, Choctaw, Sumter, Southern Hale
Dothan Regional	1211 West Main; Dothan 36301	793-7932	800-701-0926	Houston, Henry, Covington, Geneva, Dale, Coffee, Barbour
Troy Satellite	115 West Church; Troy 36081		800-424-3957	Butler, Pike, Crenshaw
Gadsden Regional	802 Chestnut Gadsden 35901	543-2435	888-288-5434	Etowah, Marshall, Blount, DeKalb, Cherokee
Migrant Farmworker Project (Gadsden Regional)	802 Chestnut; Gadsden 35901		Spanish Speaking Only 800-241-6631	
Anniston Satellite	931 Noble St, Suite 502; Anniston 36201		800-884-0595	Calhoun, Randolph, St. Clair, Clay, Coosa, Talladega, Cleburne
Florence Regional	P.O. Box 753; Florence 35631	767-2020	800-884-0595	Lauderdale, Lawrence, Marion, Winston, Colbert, Franklin
Tuscaloosa Regional	P.O. Box 020967; Tuscaloosa 35402	758-7508	888-440-3256	Bibb, Fayette, Greene, Northern Hale, Lamar, Pickens, Tuscaloosa, Walker
Metro Birmingham	P.O. Box 11765; Birmingham 35202	328-3540		Jefferson, Shelby
North-Central Alabama	P.O. Box 2465;	536-9645		Madison, Jackson

	Huntsville 35804			
Decatur Branch	P.O. Box 990; Decatur 35601	350-3551		Limestone, Morgan, Cullman

## **OTHER AGENCIES**

Centers for Disease Control and Prevention  
Child Care Health and Safety Program, MS-107  
1600 Clifton Road, N.E.  
Atlanta, GA 30333  
(404) 639-6475

Consumer Product Safety Commission  
Phone: (301) 504-0580

Maternal and Child Health Bureau  
Health Resources and Services Administration  
5600 Fishers Lane, Room A-39  
Rockville, MD 20857  
(301) 443-6600

National AIDS Clearinghouse  
Phone: 800-458-5231

National Institute of Child Health and Development  
9000 Rockville Pike  
Bethesda, MD 20892

Recalls on child car seats – Have brand name, model number, manufacturing date ready  
National Highway Transportation  
Safety Administration  
Auto Safety Hotline  
800-424-9393