

AMENDMENTS TO LB1185

Introduced by Health and Human Services.

1 1. Strike original section 3 and insert the following new sections:

2 Sec. 3. Section 71-1912, Revised Statutes Supplement, 2019, is
3 amended to read:

4 71-1912 (1) Before issuance of a license, the department shall
5 investigate or cause an investigation to be made, when it deems
6 necessary, to determine if the applicant or person in charge of the
7 program meets or is capable of meeting the physical well-being, safety,
8 and protection standards and the other rules and regulations of the
9 department adopted and promulgated under the Child Care Licensing Act.
10 The department may investigate the character of applicants and licensees,
11 any member of the applicant's or licensee's household, and the staff and
12 employees of programs. The department may at any time inspect or cause an
13 inspection to be made of any place where a program is operating to
14 determine if such program is being properly conducted.

15 (2) All inspections by the department shall be unannounced except
16 for initial licensure visits and consultation visits. Initial licensure
17 visits are announced visits necessary for a provisional license to be
18 issued to a family child care home I, family child care home II, child
19 care center, or school-age-only or preschool program. Consultation visits
20 are announced visits made at the request of a licensee for the purpose of
21 consulting with a department specialist on ways of improving the program.

22 (3) An unannounced inspection of any place where a program is
23 operating shall be conducted by the department or the city, village, or
24 county pursuant to subsection (2) of section 71-1914 at least annually
25 for a program licensed to provide child care for fewer than thirty
26 children and at least twice every year for a program licensed to provide
27 child care for thirty or more children.

1 (4) Whenever an inspection is made, the findings shall be recorded
2 in a report designated by the department. The public shall have access to
3 the results of these inspections upon a written or oral request to the
4 department. The request must include the name and address of the program.
5 Additional unannounced inspections shall be performed as often as is
6 necessary for the efficient and effective enforcement of the Child Care
7 Licensing Act.

8 (5)(a) A person applying for a license as a child care provider or a
9 licensed child care provider under the Child Care Licensing Act shall
10 submit a request for a national criminal history record information check
11 for each child care staff member, including a prospective child care
12 staff member of the child care provider, at the applicant's or licensee's
13 expense, as set forth in this section. Beginning on October 1, 2019, a
14 prospective child care staff member shall submit to a national criminal
15 history record information check (i) prior to employment, except as
16 otherwise permitted under 45 C.F.R. 98.43, as such regulation existed on
17 January 1, 2019, or (ii) prior to residing in a family child care home. A
18 child care staff member who was employed by a child care provider prior
19 to October 1, 2019, or who resided in a family child care home prior to
20 October 1, 2019, shall submit to a national criminal history record
21 information check by October 1, 2021, unless the child care staff member
22 ceases to be a child care staff member prior to such date.

23 (b) A child care staff member shall be required to undergo a
24 national criminal history record information check not less than once
25 during each five-year period. A child care staff member shall submit a
26 complete set of his or her fingerprints to the Nebraska State Patrol. The
27 Nebraska State Patrol shall transmit a copy of the child care staff
28 member's fingerprints to the Federal Bureau of Investigation for a
29 national criminal history record information check. The national criminal
30 history record information check shall include information concerning
31 child care staff members from federal repositories of such information

1 and repositories of such information in other states, if authorized by
2 federal law for use by the Nebraska State Patrol. The Nebraska State
3 Patrol shall issue a report to the department that includes the
4 information collected from the national criminal history record
5 information check concerning child care staff members. The department
6 shall seek federal funds, if available, to assist child care providers
7 and child care staff members with the costs of the fingerprinting and
8 national criminal history record information check. If the department
9 does not receive sufficient federal funds to assist child care providers
10 and staff members with such costs, then the A child care staff member
11 being screened, applicant for a license, or licensee shall pay the actual
12 cost of the fingerprinting and national criminal history record
13 information check, except that the department may pay all or part of the
14 cost if funding becomes available. The department and the Nebraska State
15 Patrol may adopt and promulgate rules and regulations concerning the
16 costs associated with the fingerprinting and the national criminal
17 history record information check. The department may adopt and promulgate
18 rules and regulations implementing national criminal history record
19 information check requirements for child care providers and child care
20 staff members.

21 (c) A child care staff member shall also submit to the following
22 background checks at his or her expense not less than once during each
23 five-year period:

24 (i) A search of the National Crime Information Center's National Sex
25 Offender Registry; and

26 (ii) A search of the following registries, repositories, or data
27 bases in the state where the child care provider is located or where the
28 child care staff member resides and each state where the child care
29 provider was located or where the child care staff member resided during
30 the preceding five years:

31 (A) State criminal registries or repositories;

1 (B) State sex offender registries or repositories; and

2 (C) State-based child abuse and neglect registries and data bases.

3 (d) Any individual shall be ineligible for employment by a child
4 care provider if such individual:

5 (i) Refuses to consent to the national criminal history record
6 information check or a background check described in this subsection;

7 (ii) Knowingly makes a materially false statement in connection with
8 the national criminal history record information check or a background
9 check described in this subsection;

10 (iii) Is registered, or required to be registered, on a state sex
11 offender registry or repository or the National Sex Offender Registry; or

12 (iv) Has been convicted of a crime of violence, a crime of moral
13 turpitude, or a crime of dishonesty.

14 (e) The department may adopt and promulgate rules and regulations
15 ~~for purposes of this section prohibiting the employment of any child care~~
16 ~~staff member with one or more criminal convictions as the department~~
17 ~~deems necessary to protect the health and safety of children receiving~~
18 ~~child care.~~

19 (f) A child care provider shall be ineligible for a license under
20 the Child Care Licensing Act and shall be ineligible to participate in
21 the child care subsidy program if the provider employs a child care staff
22 member who is ineligible for employment under subdivisions (d) or (e) of
23 this subsection.

24 (g) National criminal history record information and information
25 from background checks described in this subsection subject to state or
26 federal confidentiality requirements may only be used for purposes of
27 granting a child care license or approving a child care provider for
28 participation in the child care subsidy program.

29 (h) For purposes of this subsection:

30 (i) Child care provider means a child care program required to be
31 licensed under the Child Care Licensing Act; and

1 (ii) Child care staff member means an individual who is not related
2 to all of the children for whom child care services are provided and:

3 (A) Who is employed by a child care provider for compensation,
4 including contract employees or self-employed individuals;

5 (B) Whose activities involve the care or supervision of children for
6 a child care provider or unsupervised access to children who are cared
7 for or supervised by a child care provider; or

8 (C) Who is residing in a family child care home and who is eighteen
9 years of age or older.

10 Sec. 5. Section 71-1928.01, Revised Statutes Supplement, 2019, is
11 amended to read:

12 71-1928.01 (1) Any individual eighteen years of age or older working
13 in a residential child-caring agency shall be required to undergo a
14 national criminal history record information check not less than once
15 during each five-year period that he or she is working in such an agency.
16 The individual shall submit a complete set of his or her fingerprints to
17 the Nebraska State Patrol. The Nebraska State Patrol shall transmit a
18 copy of the individual's fingerprints to the Federal Bureau of
19 Investigation for a national criminal history record information check.
20 The national criminal history record information check shall include
21 information concerning the individual from federal repositories of such
22 information and repositories of such information in other states, if
23 authorized by federal law for use by the Nebraska State Patrol. The
24 Nebraska State Patrol shall issue a report to the department that
25 includes the information collected from the national criminal history
26 record information check concerning the individual. The department shall
27 seek federal funds, if available, to assist residential child-caring
28 agencies and individuals working in a residential child-caring agency
29 with the costs of the fingerprinting and national criminal history record
30 information check. If the department does not receive sufficient federal
31 funds to assist residential child-caring agencies and individuals working

1 in a residential child-caring agency with such costs, then the The
2 individual being screened or the residential child-caring agency shall
3 pay the actual cost of the fingerprinting and national criminal history
4 record information check, except that the department may pay all or part
5 of the cost if funding becomes available. The department and the Nebraska
6 State Patrol may adopt and promulgate rules and regulations concerning
7 the costs associated with the fingerprinting and the national criminal
8 history record information check. The department may adopt and promulgate
9 rules and regulations implementing national criminal history record
10 information check requirements for residential child-caring agencies.

11 (2) An individual eighteen years of age or older working in a
12 residential child-caring agency shall also submit to the following
13 background checks not less than once during each five-year period: A
14 search of the following registries, repositories, or data bases in the
15 state where the individual resides and each state where the individual
16 resided during the preceding five years:

- 17 (a) State criminal registries or repositories;
- 18 (b) State sex offender registries or repositories; and
- 19 (c) State-based child abuse and neglect registries and data bases.

20 2. On page 9, line 31, strike "and 71-1912" and insert "71-1912, and
21 71-1928.01".

22 3. Renumber the remaining section accordingly.